California Journal
Monthly Analysis of State Government and Politics
March 1982/$2.50

SPECIAL SECTION
Campaign Law Guide

B.T. COLLINS
No-nonsense commander in the governor's office

One senator's view of the Capitol press corps

Impact of the court's redistricting decision

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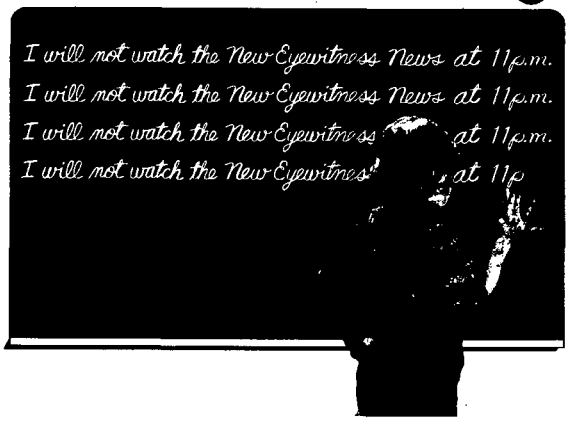
It is almost an axiom of the broadcasting industry that political news is obscene. But don't bet on public-affairs issues receiving a great deal of attention on the new "x-rated" newscasts:

IT'S DEFINITELY NOT FOR KIDS 7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Assembly Ways and Means Chairman John Vasconcellos doesn't take criticism of the Legislature lightly, including the way Supervisor Quentin Kopp of San Francisco described the 1981 session in Sacramento ("probably the most arrogant display of indifference to county government that I have observed in 10 years as a supervisor)." Vasco's reply: "I'm astonished . . . Counties did well financially (compared with other levels of government). I never heard any concern/complaint at all from you regarding our treatment of counties. What's up?"

For whatever it may be worth, Professor Gene Lee of the University of California at Berkeley thinks the state's contest for superintendent of public instruction is the biggest nonpartisan political race in the world.

In Los Angeles County, they have come up with a description of the process used to minimize the negative effect of incompetent school principals, who are shifted from school to school each year. It is called "the waltz of the lemons."

Press release of the month: "Senator James R. Mills (D–San Diego) today introduced a 'truth in pouring' bill requiring restaurants to orally inform their customers when cream is not available. . ."

Senator Dan Boatwright of Concord is known in his district for demanding that cities bite the bullet. San Pablo Mayor Kathryn Carmignani recently presented Boatwright a mounted set of false teeth in the act of biting a bullet. The inscription: "San Pablo, we bit the bullet."

With seven-foot Bruce Roberts seeking the Republican nomination for state treasurer, will the incumbent be known as Jesse (Little Daddy) Unruh?

The temporary chambers used by the Senate and Assembly during the reconstruction of the state Capitol are apparently headed for the campus of San Francisco State University. The buildings will be used to house the Sutro branch of the state library, which contains one of the best collections of Mexicana in the world.

Final report on the "Proposition 13 struck and . . ." word game —

From Susan and Steve Boreman of Sacramento: The Military Department surrendered. The Department of Fish and Game floundered. The Little Hoover Commission was left in a vacuum. The Youth Authority wet its pants.

From Evan Nosoff of Sacramento: The Water Board's powers were diluted.

From John Cherry of Sacramento: The Space Management Division had a close encounter. The Cemetery Board eliminated the graveyard shift. The Board of Accountancy hung in the balance. The Department of Insurance altered its policy. The State Banking Department made a deposit.

Message from the Publisher

Beginning with the April issue, the *California Journal* will make space available to advertisers of products and services of interest to our readers.

In its 12-year history, the *Journal* has carried only "in-house" ads. Why the change? There are three main reasons:

First and foremost is financial. The *Journal* itself will incur a substantial deficit this year. Our book publishing and related activities will close some of the gap. Generous contributions from our subscribers, above and beyond the renewal charge, help further. But a growing deficit remains. Foundations and corporations have provided support grants in the past, but they are less able to assist now because of increased demands and diminished resources. And we believe that subscription rates are as high as reasonable, consistent with our educational purpose.

Secondly, advertising should enable the *Journal* to expand its "news hole." We are committed to no reduction in coverage of California's fascinating politics, personalities and issues. The size of the magazine will be increased to accommodate advertising, thus making available additional space for articles.

Thirdly, advertisers with services, books, conferences, products and other materials will be able to reach the *Journal*'s unique readership. We believe that these offerings will be of interest to our readers.

I assure you that we are committed to the principles of editorial quality and independence that have been the hallmark of the *Journal* since its inception. We will reject any advertisement which we feel compromises the integrity of the *Journal* in any way.

The carrying of advertising is an experiment. We invite comment from readers on the concept in general and on specific advertisements.

If you have comments on advertising or would like information on rates, deadlines and specifications, please do not hesitate to call or write.

THOMAS R. HOEBER
Publisher

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The governor's new chief of staff has toned down his rhetoric, built team spirit and eliminated "Brown time."

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By H. L. (Bill) Richardson

Turning the tables on Capitol reporters, Senator Richardson offers some candid, pen-and-prose opinions of the media.

SPECIAL SECTION: 1982 CAMPAIGN LAW GUIDE

Included in this month's issue is the fourth edition of California Journal's *guide to state and federal campaign laws. Completely updated with recent court decisions and changes in campaign law, this guide offers practical information of value to candidates, elected officials, contributors and campaign workers. This election-year publication is also available as a separate reprint.*

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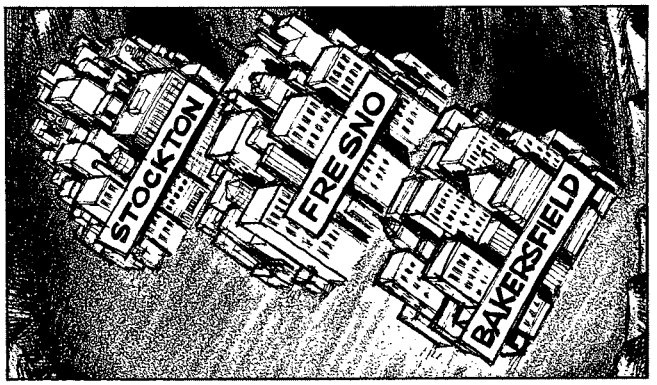

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Personal

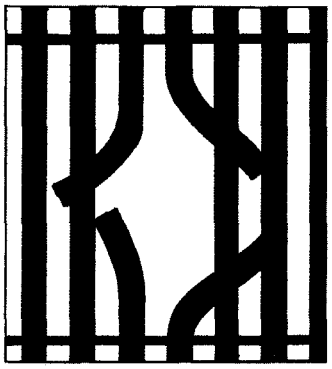
PERSPECTIVE

By Ed Salzman

Crime politics

It was only a bit more than a year ago that California politicians discovered that crime was foremost on the minds of California voters. Suddenly, even the most civil-libertarian legislator became a crime fighter. The Legislature broke down the floodgate, otherwise known as the Assembly Criminal Justice Committee, and allowed dozens of so-called anti-crime bills to flow onto Governor Brown's desk. Brown joined the lawmakers in placing a $495 million bond issue on the June ballot so that more criminals can be incarcerated in county jails and state prisons.

So now that legislative liberals are no longer available as the target for anti-crime rhetoric, how are politicians going to defend themselves from citizen attack if it should become apparent that the crime wave has not been halted? Some politicians, including potential candidates for the Legislature from San Jose and Sacramento, have already found the solution for this year's political season. They are following the lead of some police chiefs who have been screaming for years about the release of parolees into their communities. The new cry: Keep those dangerous felons out of our town.



Instead of attacking liberals in the Legislature, the attention is now focused on state corrections officials. Prison authorities have attempted to ward off the attacks by establishing a policy that calls for all parolees to be returned to the counties from which they were committed — unless there is a valid reason to send them elsewhere. Rhetoric is being answered with rhetoric. Here's why:

A large majority of felons have always returned to the communities in which they lived. Take Santa Clara County, for example. In 1980 (the last year for which statistics are available), the state released 423 parolees into the area, compared to 509 sent to prison from the same area in that year. Los Angeles sent 4,237 away and received 3,088.

Sacramento, it might appear, has just cause to scream about discrimination against the Capitol City. The statistics show that in three of the last four years, more felons were released into Sacramento than were committed from the county. But these statistics are deceptive because the Sacramento parole office covers other valley counties, and the total number of parolees listed for Sacramento County has therefore been artificially high. The state hopes to eliminate this problem by separating Sacramento County parolees from those who settle in neighboring counties.

It may be that some communities are being unfairly treated by releases from the federal prison system and the California Youth Authority, but the odds are good that most of these offenders also return to the communities where they lived before their incarceration.

For years, the main thrust of the anti-crime rhetoric has been that not enough criminals have been sent away for long enough stretches. Now, the prisons are overcrowded and more cells are critically needed. (Incidentally, most of those who argue for prisons want the facilities anywhere but in their own communities.)

Who can argue with a police chief or a candidate for the Legislature who charges that too many dangerous parolees are walking the streets of any California community? Even one is too many. Ideally, California ought to grant parole only to those willing to leave the state or country. But then a new whipping-boy issue would have to be found to feed to the public.

ROSTRUM

Short letters from subscribers are encouraged.

No Machiavelli

Senator John Schmitz was unfairly and inaccurately lambasted in the February *California Journal* article by James R. Carroll. It was more of a diatribe than attempt at news release. Carroll doctors quotes ("*only* way America can be saved"), distorts context ("urged bombing of Cuba and Nicaragua") and invents motive ("support for the right-wing radical fringe").

Senator Schmitz is no game-playing Machiavelli. He means strongly what he says when responding to attacks on traditional morality. It took courage at that now-momentous open meeting on abortion by the Senate Constitutional Amendment Committe to call pro-abortion witnesses "murderous marauders." But rather than being anti-Semitic, he really disassociated the ovewhelming majority of Jewish women from the "hard, Jewish and (arguably) female faces" who wanted unborn babies murdered. And it appears that because Senator John Schmitz is a practicing Christian, a college teacher and scholar, he would know that Judaism, the religion of the Jewish people, is a system of righteous conduct "for life and not for the depriving of man's life," to quote an eminent rabbi of old.

Senator John G. Schmitz has run successfully for the California Senate and the House of Representatives, and unsuccessfully, with 1,098,482 votes, for president of the United States, entering after a week's notice. Now he is a candidate for the United States Senate.

Mr. Carroll should be asked about the exaggeration in the article, "his propensity to run for every office in sight."

MIKE SASLOW
Sacramento

One-way appeal

Your January article ("More than small change for 'People's Court' ") makes a statement that either side may appeal the small-claims judge's decision to the Municipal Court. Unfortunately this statement is not true in California as only the defendant has the right to appeal a small-claims judgment.

ROBERT H. SHERWOOD
Hemet

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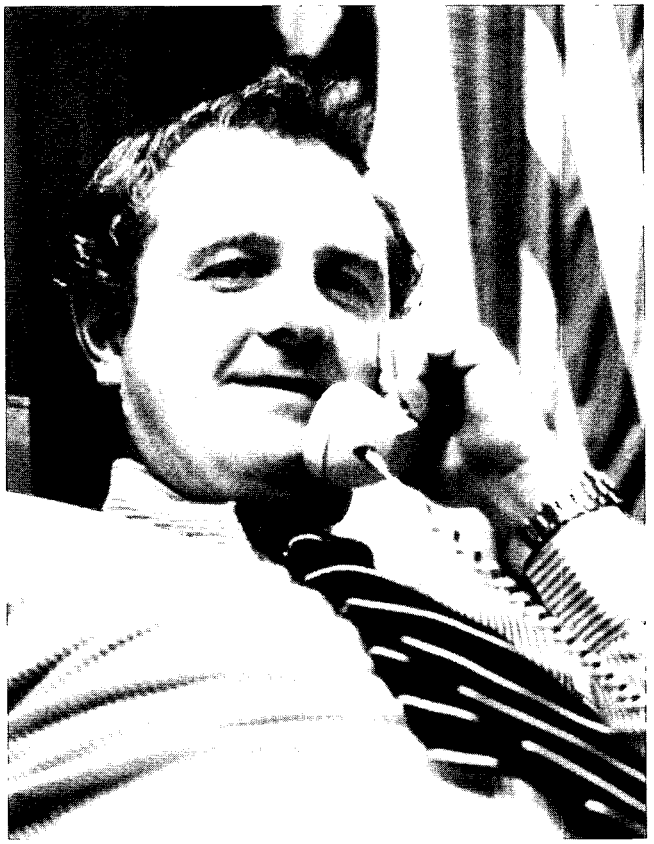
New style in the governor's office:

From Gray (Davis) to Green Beret (Collins)

By JAMES R. CARROLL



PHOTOS BY CHRIS VAN OVERLOOP

There is a small engraved plaque on the back of the rocking chair that the troops of the California Conservation Corps gave to B. T. Collins: "EGB IS NOT TO SIT IN THIS CHAIR. — BY THE MANAGEMENT."

That is one rule the new chief of staff to Governor Edmund Brown Jr. has in his cluttered and homey inner sanctum — right across the hall, in fact, from EGB. There are two other rules, also aimed at the boss: "He can't eat my food, and I don't want him touching my drinks."

It is perhaps one of the more remarkable stories of the Brown years that a swaggering, brash, blunt ex-Green Beret captain from the Bronx — and a Republican — has risen to be the administration's second most powerful figure. How it came to be that way would be a long story in itself.

The short version of the public record shows Collins coming to work for Brown in 1976 as a deputy legislative secretary, a job that required him to explain Brown's programs to the Legislature and somehow get them through. While not always successful, Collins' political skills impressed the governor. When the troubled California Conservation Corps needed a new director in 1979, Collins was given the post. Collins says he took the job reluctantly. But he was the savior of "the Cs." Collins became a one-man media event, turning a Brown liability into probably the administration's biggest success story, a program which even the Republicans have little trouble voting for. Collins has calculated that he was responsible for 7,300 printed stories about the corps, 650 radio and television stories and three documentary films.

So when Gray Davis decided to leave his post as major domo of the administration last October, the one logical successor was B. T. Collins. The down-to-earth, no-nonsense administrative image would be good for Brown, who sometimes has trouble convincing people he really is a governor for the political mainstream. But there was another reason for Collins' selection: Brown likes Collins personally, and he places complete trust in him.

That is not to say Davis was not liked and trusted. Brown was close to Davis, and the pair seemed to think alike. Davis was known as Brown's alter ego, only a little more practical. There was never any doubt that when Davis spoke, he was speaking with all the authority and support of the governor behind him. Davis became so good at his job that when Brown left California for his disastrous foray into the presidential sweepstakes in 1979 and early 1980, the governor was hardly missed. Davis picked up the tag of "the real governor."

Collins apparently has suffered no diminution of the power or authority consolidated in the chief of staff's office during Davis' six-and-a-half-year reign. But the styles are different. One Brown staffer explained the difference this way: "Gray was very political, exceedingly astute and totally loyal to Brown. But he was also . . . more corporate. B. T. has all of the finesse and all of the political things that come with being an ex-captain. But he's a little more with the team; he's out there leading. And he expects you to be 100 percent accountable for what you do."

His first crisis

It was Collins' belief in that accountability that led to his first crisis as administration steward not long after arriving from CCC headquarters. The *Los Angeles Times* published a Sunday front-page story about Collins last November. Front-page stories about Collins have been commonplace, but this one was different. In addition to the usual frank comments and asides that are part of Collins' personal style, there were some Collins quotations about the governor that were not flattering. Collins was quoted as ridiculing Brown for his personal habits, said that his boss was "out in Uranus half the time" and "doesn't really relate to the everyday problems people have, because everything's come too easy for him." There was more, and it was equally uncomplimentary.

The story was a major sensation inside the administration. Some administration officials urged Brown to fire Collins. Collins himself was distraught. He was used to good press. This was a new experience. Friends said they had

James R. Carroll, who covers the Capitol for The Register *in Orange County, is a frequent contributor to the* Journal.

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never seen Collins so downcast. He offered to resign, but Brown would not hear of it. And the governor went beyond that. Instead of easing Collins out, or freezing him out, Brown reached out to Collins.

"What made me bounce back was him," Collins said of the governor. "He made a special attempt to cheer me up. He told me, 'Hey, this is going to blow over. I thought you were tougher than that.' At another point, he told me, 'We only allow long faces in this office for 48 hours.' "

If anything, Collins now believes, the experience has made him closer to the governor. Brown "really showed his mettle during that . . . Sticking by me when he didn't need to." (Collins paused, still obviously affected by Brown's morale-boosting efforts.) "It's kind of hard to turn on a guy like that."

Months after the *Times* incident, Collins reflects that "the article was a disservice to the governor. Let's face it, he got blindsided by his chief of staff." Collins looks solemn as he says it, as if he were confessing to a crime. It is obvious that it still hurts to talk about it.

Despite his military background, Collins brought a kind of informal administrative approach to the governor's office — certainly less formal than Davis, staffers seem to agree.

"The door is open," says Collins. "It's something I learned from Dick Silberman" (a close Brown adviser and a former state Finance director who remains active behind the scenes in Brown's campaign for the United States Senate).

"My philosophy is that I never met a person I couldn't learn from . . . And one thing you've got to learn is, don't try to do it all yourself. You've got a staff; use them . . . And when they're right, you got to stick up for them. When they make a mistake, kick 'em in the ass."

As with any large group of people working on everything from the state budget to the governor's travel schedule, Collins finds coordination is a major challenge. "The biggest problem in this office is making sure everybody knows what everybody else is doing," he says.

Between the cracks

Sometimes, however, things have a way of slipping between the cracks. Such was the case with a memorandum issued in mid-December by the governor's Council on Wellness and Physical Fitness. The memorandum, written by the council's executive director, Theodora Wilner, outlined numerous ways in which state employees could celebrate "Wellness Week." Among the suggestions were these, listed here word-for-word:

- Drink Perrier instead of Pabst.
- Hang around people who are good for you.
- Play. Give yourself time to be childlike. Organize an office game.
- Replace vending machine kaka with nuts, raisins and other healthful snack foods.
- Don't eat anything white.
- Show Laurel and Hardy movies or "Friends Can Be Good Medicine" in the cafeteria or a conference room. Laugh into wellness.
- Hug your boss.

The memo was issued on Governor's Office stationery, so B. T. Collins got a call from *The Sacramento Union*, which found the missive amusing. Collins did not find it very amusing and ordered a fast revision. Wilner claimed the memo was written "tongue-in-cheek." After a reprimand from Collins, she said: "I've been spanked."

The memo, while humorous, is just the kind of thing Brown doesn't need now. He has been doing a little revision of his own on his political image. Becoming chairman of the Democratic Governors' Conference and embracing Franklin Delano Roosevelt have been part of an effort to portray himself as a Democratic Party regular. Brown wants to bury forever nicknames like "Governor Moonbeam" and adjectives associated with him like "flaky" and "touchy-feely." So along comes the memo, which hit the national wire services.

Was Collins worried that the wellness memo would resurrect the image of a "flaky" Jerry Brown? "That was some of my concern, yes," he admits. Then he adds, "Jerry thought I was being a bully."

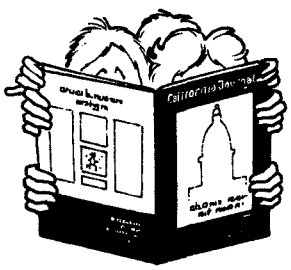
There have been more serious problems since Collins became chief of staff. Two administration officials have resigned, both blaming their departures in some measure on Collins.

Is Collins out to get some people; is there a "hit list?" Collins emphatically denies it: "That would be ridiculous. This is the last year of a lame-duck administration. We want to keep the team together . . . These are the governor's appointees. Nobody elected me to anything."

The first official to go was Pearl S. West, head of the California Youth Authority for five years. West had been one of those who had urged Brown to fire Collins after the *Times* article had appeared. But Collins and West had feuded before that, largely over the philosophical approaches to roles of their agencies. West had been criticized often for being too soft on the CYA's wards, whom she called "kids" and "children," even though more than half of those in the juvenile correctional system had been sentenced for crimes like murder and rape. Collins, on the other hand, was getting a lot of publicity for running the CCC like a paratroopers' school — and the young people were breaking down the doors to get in for a chance at "hard work, low pay and miserable conditions."

The crunch came over a weekend conference which West had scheduled in Pasadena. Collins does not like weekend conferences. He said so the day he was appointed, and he

Introduction service



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promised to end them. So the Pasadena meeting, which was to focus on juvenile delinquency, was canceled by Collins. West was furious and met with Brown to discuss it. They ended up talking about her resignation. Brown accepted it. The way that some reporters interpreted it, West was fired. In any case, she was gone. Said Collins of West: "She didn't follow procedures."

Resignation No. 2 was announced a little more than two weeks later. State Mental Health Department Al M. Loeb said he was "exercising my right of retirement."

Loeb's agency had spent $83,000 to produce a series of state-sponsored television commercials aimed at so-called "special populations," including homosexuals, minorities and the elderly. Collins canceled the messages, saying they smacked of advocacy.

"I just didn't think it was a proper expenditure of state money," Collins says. Both he and Loeb, whom Collins brought to the administration, deny they had a confrontation over the cancelation of the commercials. They say they are still friends. But, Collins says, he was surprised to see in Loeb's resignation letter to the governor the mention of "philosophical disagreements" with the new chief of staff.

Checking the eyes

Such disagreements should not surprise anyone. Collins readily admits he is politically more conservative than most of the administration. "I'm more of a political pragmatist — they're closer to their ideals," he says. The contrast, in his view, provides "a balance."

On the other hand, Collins does not think he is that much out of synch with Brown, and he says he cannot imagine a situation in which he would be obliged to say or do something that would conflict with his own philosophical principles. "If I can't," he says, "then I should leave . . . Hell, people who are my closest friends — we never agree on the time of day."

Collins sees his work with the governor as a kind of symbiotic relationship: "He's the issues person; I'm the people person." While some administration observers think Gray Davis was a kind of filter for Brown — sifting opinion, boiling it down — Collins likes to let the governor find things out first hand, to hear from people who disagree with him.

"I do not advise the governor," Collins says. "I bring somebody in here and I say to the governor, 'I want you to listen to this person' . . . That's when the governor's really good. I like him to hear it from all different points of view so nothing's colored."

But for those tempted to take advantage of the opportunity of a one-on-one with Brown, Collins has a little advice: "Don't bullshit him." During a session with someone Brown may or may not have reason to believe, he will occasionally glance over at Collins. "He just checks my eyes out," Collins explains; then he rolls his eyes to illustrate what he does when, in fact, someone is "bullshitting" the governor.

Unlike alter-ego Davis, who some believe was too tolerant of Brown's excesses, Collins tries to temper them. "Jerry Brown gets obsessed with government," Collins says. "You know, he's like 'I want to do everything.' He sometimes forgets people have families. I add that touch of reality in here."

He adds a little reality out in the real world, too. For example, Brown has been notorious for showing up late to almost everything. Reporters even have come up with a name for the governor's schedule: "Brown time." That usually means adding 10 to 30 minutes to an announced time for a gubernatorial appearance. So imagine the surprise in the press corps when, not long after Collins took over, Brown began appearing at news conferences early.

Collins has also had his hand in trying to improve the administration's relationship with the California Legislature. Just a couple of days after Collins became chief of staff, Brown was ready to announce a new plan to deal with the state's worsening financing problems. Collins prevailed upon the governor to delay the release of the details of his across-the-board cutbacks until he informed Senate President pro Tem David Roberti of Los Angeles, and Assembly Speaker Willie Brown of San Francisco. The speaker had to be tracked down in Italy.

Barzaghi's 'brother'

Another change in style is Collins' refusal to act as chief spokesman for the administration on every issue under the Capitol dome. Davis had done that so well that being the governor's press secretary was one of the more frustrating and least rewarding jobs in Brown's office. Just ask the first six press secretaries. The seventh one is Richard Steffen,

brought over from the CCC by Collins and who, Collins has pledged, will have a more substantive role to play than just typing press releases.

Staffers questioned at various times about the change from Davis to Collins have indicated that there is less tension in the inner circle now. One of the more publicized battles of wits was between Davis and Jacques Barzaghi, now Brown's director of administration.

But Collins and Barzaghi are close. Collins was a witness when Barzaghi became an American citizen, and he gave Barzaghi a cigarette lighter inscribed with the message: "When are you going to learn ze English?" When Collins took over, Barzaghi had his own gift, a key to the office with an engraved key chain attached. On one side the engraving read: "Oval Office." On the other: "*La Guerre, La Guerre, Toujours La Guerre*" and "Walk or Die" — the motto of the French Foreign Legion.

Asked about the Collins style, Barzaghi sat for three minutes, thinking. "If I could sum it up in one word, it is like working with a brother. We all look at him for guidance . . . And you can argue with him because you know he can take it."

But the ultimate judgment, of course, must come from the boss. During one of the frequent back-and-forth shuttles Brown and Collins make between each other's offices daily, the governor would only make a half-joking assessment of his chief of staff: "He hasn't had enough time. He's untested. He needs some seasoning."

B. T. Collins has less than a year to get more of that.

(For additional background on B. T. Collins, see "The Outrageous B. T." CJ December 1977, and "Can Collins save the CCC?" CJ May 1979.)

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Every day, Capitol reporters have the chance to critique the performance of California legislators. But lawmakers rarely get the opportunity to turn the tables — at least in print. With combat between the press and the politicians flourishing in the Capitol, the Journal *decided to obtain a legislative view of the Capitol press corps. To achieve balance, a liberal Assembly Democrat and a conservative Republican senator were asked to write assessments of Sacramento reportage. The first to complete the assignment is Senator H.L. (Bill) Richardson, an outspoken former advertising man who has written, among other things, a book entitled* What Makes You Think We Read the Bills? *Richardson, who once earned his living as a cartoonist, illustrated his own article at the* Journal's *suggestion.*

One senator's view of the Capitol press corps

'Opinionated, frustrated, egotistical . . . and becoming more conservative'

By H. L. (SCOOP) RICHARDSON

Hard as it is to believe, there are those who would try to categorize me as a conservative. Although my political sympathies are a teensy-weensy bit to the starboard, my dedication to objectivity, moderation, serenity and rationality can hardly be questioned. That, I believe, is the reason why the *California Journal* chose me to write and illustrate this article about the Capitol press corps.

I humbly accepted the challenge; the money had nothing to do with it. My legislative salary hovers above the poverty line, so monetary considerations can obviously be discounted. I saw it as a challenge, a window of opportunity, a chance to be a beacon of truth — a literary lighthouse in a sea of cynicism.

At first I thought the article would be a snap. After all, for 16 years I have watched the Capitol press corps in action. So cataloging my observations in an orderly fashion (interlaced with objective commentary from Howard Jarvis, Senator John Briggs, and former Senator Al Song) should give the public an unbiased insight into the media. I also toyed with the idea of interjecting the treasured intellectual quotes of Senator Alex Garcia and Assemblyman Dick Floyd, which are so often used by the media. But then again, why pander to the masses for the sake of academic applause?

I finally decided that the best way would be to interview the media, to ask questions of the reporters for a change, to put them under the klieg lights of objective scrutiny. I gleefuly contemplated what their reactions would be as I whipped out my note pad, placed my little recorder under their inquisitive noses and asked them impartial questions such as, "When did you first begin to admire Karl Marx — when you were a child or later in college?"

Alas, although these and other humorous thoughts ricocheted around in my mind, the sobering responsibility of accurately projecting my conservative viewpoint of the press kept coming to the foreground. Having observed the Capitol press corps all those years, I have formulated some opinions — opinions which, I begrudgingly admit, have changed over the years. I did interview Capitol reporters extensively, as they will attest. I sought out their opinions; I interviewed more than one-fourth of the working Capitol press corps. Even if I had interviewed them all, my effort is at best a subjective evaluation. Yet it is one which I hope will give some insight into those probing skeptics who cover California politics.

Generally speaking, politicians are not overly fond of the press. Why should they be? Most of their press releases are ignored; their comments attract skepticism, and the press is always asking questions, questions, questions. There is always someone standing up and asking something you would rather not answer — or worse, something you *cannot* answer. Reporters are not a bunch of innocents running around in the political woods of Sacramento; they are more like birds of prey circling above. They certainly do not view themselves as carrier pigeons for the legislators. In fact, they do not view themselves as anybody's pigeon. What is important to a legislator is often not the least bit interesting to a reporter. Conservative legislators tend to interpret a reporter's probing as liberally inspired. Left-wing legislators think all reporters are under the control of their publishers. And most politicians just think reporters are unduly nosy aardvarks, intent on destroying the legislators' unblemished public records with some trivial piece of inconsequential truth.

Doing a job

Show me a legislator who has not bitched about the press in private, and I'll show you a guy who's never held a press conference. Republican legislators rarely attend Demo-

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cratic press conferences and vice versa, so they are not privy to watching a reporter do a job on someone else. One reporter offers a good example:

"Otto Kreisher from the *San Diego Union* is really amazing. I've seen him get up at a press conference, held by two consecutive groups on the same subject, nuclear power. When the pro-nuclear people were up, Kreisher acted like a member of the Abalone Alliance when asking them questions. Then with the anti-nuclear people at the next press conference, he came off sounding like an official of nuclear energy."

Legislators, as well as the public, rarely analyze a press conference from a technical perspective. Instead, all they view is insolent-looking reporters asking questions that they themselves would not think of asking. There are those among the press who have the reputation of having brass tonsils. Kreisher is just one. When a legislator calls a press conference and it is suspected that he is just trying to use the media for political purposes, someone, usually Otto, will pop up and sarcastically inquire if that is their intent. That does not win a reporter the affection of every blessed one of us sincere, dedicated, conscientious, honest, straightforward politicians who would never, ever think of doing anything so dastardly as using the press for our own narrow political gain. If you scrapped every reporter in Sacramento you would have enough metal to start a brass factory.

Reporters in the Capitol, whether you like them or not, are the best you will find this side of Washington, D.C. There are no amateurs. The screening process is extensive, and those who make it are deemed to be the most qualified for the job by their editors. They take pride in that fact. Sacramento is no Siberia, where the members of the press are sent to do penance. It is a coveted job with a backlog of reporters waiting for their chance.

There are only about 60 reporters to hover over the executive and legislative branches as well as the state bureaucracy and every other organization, political-action committee and special-interest group which believes the public has a right to know about their crusade, cause or unground axe. The press is inundated with demands on its time, and each day an agenda has to be established to sort out what will and what will not be covered. The process of selection makes the job of the reporter a subjective one at best. What he or she selects becomes news; what he leaves in the wastebasket is of interest only to the janitor.

That selective process — the nature of how news is screened — has few hard-and-fast rules, according to Kreisher. "We all plan to be objective, but — by the very nature of our work — we are subjective," he says. "We have to screen. Of the 99 percent that comes down the patch you have to let 1 percent through."

Bob Egelko of the Associated Press says most of the discussions in the bureau office are over one lead or another: "Is this a set-up; are we being manipulated; did we miss something, or should there have been an extra phone call made? Or what about this press release, or whatever? There is a lot of subjective judgment. That is why we have editors, of course."

The process of assessing what is and is not news is a form of censorship, but is there any other choice? Volume divided by time constraints is a large part of the censorship formula. But the reporter's philosophical makeup cannot help but be an influencing factor on what is deemed newsworthy or garbage, capricious propaganda or solid news. Gale Cook of the *San Francisco Examiner* offers one example: "The story that I have had a problem with reporting up here is Governor Brown's proposal to use public pension fund money for innovative programs and that sort of thing. That has always bothered me, and every time I come to write a story on that, I really have to watch myself because if I do not, I am going to get mad as I write it, because I think it is a bad idea. I recognize that I have this feeling and I keep it out."

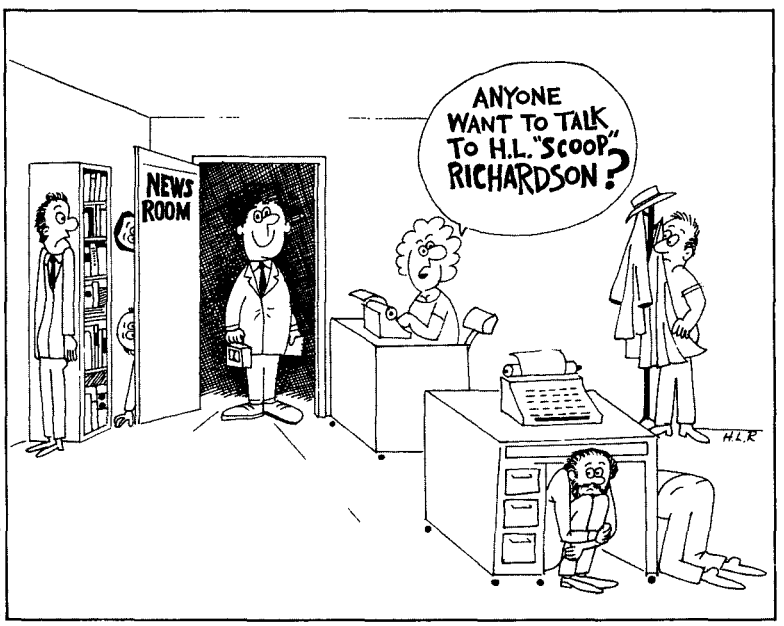
Claire Cooper of *The Sacramento Bee* says reporters try to be aware of their biases and counteract them by seeking opposite points of view. "Sometimes," says Cooper, "it is easier to cover someone with whom I do not agree."

It is obvious that reporters have viewpoints, opinions and ideals. I have never seen such an opinionated group that tries so hard to appear as if they are not. It's like Dolly Parton claiming she is flat. It must be frustrating as hell. At least as a legislator I can blow my bazoo off anytime I want. In fact, sometimes the more dramatic my position the greater the applause. But if a journeyman member of the press voices his opinions too loudly, it is job-jeopardy time.

No other group of people is exposed daily to as many political viewpoints as the Capitol press corps. They stand up to their earlobes in the dank river of opinion that flows about the Capitol, pretending to be unaware of the political goop swirling under their noses. One Capitol reporter who has been on the scene for nearly two decades calls his brethren opinionated, ego-ridden and convinced that they are more qualified intellectually to do the job than the present crop of legislators. They are bright, no doubt about it, but reporters rarely become legislators. They would think it beneath their dignity to wallow in the day-to-day glad-handing which is a definite part of a politician's life. The organizational aspects of politics would be an anathema to them. The thought of having to ask for political contributions does not fit with their self-image.

Angels of the Lord

Politicians are not oblivious to the suppressed self-righteousness and aura of superiority that sometimes drift from the back rows. Sometimes press conferences seem to develop the feeling that Judgment Day has arrived and the



CARTOON BY H.L. RICHARDSON

angels of the Lord all have tape recorders and note pads. Some reporters will readily admit they are frustrated by being observers and not doers. One well-respected reporter explains it this way: "You spend your entire life looking at what other people are doing and writing about it after the fact, as best you can. You cannot go out there and actually do it. It can be an extremely frustrating thing. That is one of the reasons why reporters tend to be kind of insolent themselves — in the same way, I suppose, that policemen are insolent among themselves and maybe politicians are, too.

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That is why some people leave this business and become press secretaries or politicians — because they get so frustrated at not being doers."

The press would rather be thought of as skeptical than as a body of cynics; skepticism goes with the territory. A reporter bereft of skepticism is soon deflowered by legislators, demoted by his editor — and derided by his peers.

Cynicism sometimes prevails among those who daily observe the complexity of government and are frustrated by the situational ethics of some officeholders. It is not without cause that some reporters come to believe that self-interest is the sole motivation of legislators. It is logical to postulate that before one can become a cynic, it is necessary to have ideals betrayed. "Maybe we did come up here believing that people meant what they said," says AP's Egelko. "But I think we are most often called cynics by people who want us to believe what they are saying. We have our share of universal skeptics among us, but I do not think we are cynical on subjects (other than) the people we cover."

Middle-class loners

Does the press enjoy being cynical? I think not; in fact most of them, I contend, have more idealism than they would like to admit. Idealism connotes a set of values; values cause one to make judgments; judgments cause one to develop a strong set of opinions; and opinions can distort one's objectivity in reporting. Objectivity is the standard of a good reporter.

Whenever my interviews focused on "objectivity of the press," the interviewees, to a person, turned on. Their intensity always rose several points. There seemed to be no vulgarity that could match calling a reporter "lacking in objectivity."

How do you retain objectivity in a business whose very character demands subjectivity on an hourly basis? With difficulty — it is one of the paradoxes reporters have to live with. Bob Gunnison of United Press International says the results can be depressing. "In last year's Legislature," Gunnison says, "there were a couple of bills that came around that made you sort of sick about things. The five cities bill — it is tough to find the nice side of that bill . . . It would be damn difficult to keep your idealism as to what was taught in a civics course about legislatures in general, after being exposed to the Legislature for several years."

Bob Fairbanks of the *Los Angeles Times* thinks the press corps is becoming more cynical because the political game is getting more costly. "I think the Legislature has been changing in its reliance upon campaign contributions," Fairbanks suggests. "I do not think the legislators were as reliant on money — say, five, maybe ten years ago — as they are now. And for that reason . . . you come to realize that, maybe you become more cynical. I would say that the Legislature, too, has changed and so it has generated an attitude of 'What is in it for me?'

"You have to be pretty dumb to sit here day after day and believe every floor speech that is given," Fairbanks adds. "You realize that people have motives that they do not express, and then you start looking. Things happen for reasons you cannot explain and then you begin looking at campaign contributions. . . . Cynicism is probably the reflection of what they see or perceive as being true."

What kind of people make up the contemporary Capitol press? The stereotypical reporter of yesteryear is gone, so I am told. No longer is there a favorite bar where you can find the hard-drinking, woman-chasing, macho member of the media; that image is definitely out. What is in? Would you believe middle-class American?

Dan Walters of the *Sacramento Union* describes his peers this way: "The press corps tends . . . to be hopelessly middle class and hopelessly centric — conservative in their feelings about crime and taxes and schools and in their own personal lives. But the vestiges of their earlier upbringing and their earlier lives make them a little more suspicious of conservatives or rightists — those right-of-center — than those left-of-center."

But do not go looking for many members of the media in your local Kiwanis or Rotary Club. Like other artists, they tend to be loners and non-organizational types. "If organizations had to depend upon reporters for their sustenance, they would never exist," Walters says. He offers this example: "B. T. Collins (Governor Brown's chief of staff) has been trying to promote the idea of the press corps coming out and giving a lot of blood for the Red Cross — and nobody shows up. Finally I said, 'B. T., let me tell you the truth of the matter. Reporters have a natural aversion to getting involved in something. I have given blood for years. They love to get my blood; it is Rh negative. I have given gallons of blood, but I am not going to go down there and involve myself in some kind of organized competition with you and Jerry Brown in giving blood. That is just not the type of person I am, and you are not going to get a big turnout of reporters doing that."

As most creative types who have to put bread on the table, writers often don't care for the subject matter they must write about. However, they are proud of their ability to earn a living with the pen and, almost universally, feel committed to their jobs.

Jerry Gillam of the *Los Angeles Times* thinks the Capitol press corps is more dedicated to state government than a lot of people believe. "I think they really care," Gillam says. "They will deny they care in some cases, but I think they really do or they would not be here, doing what they are doing, especially for a long time, like me.

Doug Willis of the Associated Press explains a couple of the rewards of the business: "If I can take a complicated subject and explain the various sides and the options, I have contributed to making democracy work," he says. "I feel good about contributing something worthwhile . . . You know another reason why people get into the news business and stay in it? It is a helluva lot more fun than most things. I have this problem, now that I have been with AP long enough that I get four weeks of vacation per year, plus a personal holiday and birthday. I cannot take all that time off. Work is too interesting; there are things that I want to do at work. I have been a reporter for 22 years, 12 years with AP. I do not know very many people who are at that point in their work careers who still enthusiastically go to work every day."

The verbal jungle

Most press corps members also consider their Capitol assignments as marks of professional achievement. "This may be self-serving or immodest, but I believe that getting this job is kind of like being appointed to the Supreme Court, in a way," says Bob Schmidt of the *San Jose Mercury News*. "It becomes apparent to you after a while that this is important stuff to be writing about . . . and that you have been selected to come here in the first place by hard-nosed editors."

The *Examiner's* Cook agrees: "I certainly feel responsible for my work — in fact, I agonize over my responsibility. You can ask my wife; she is getting sick and tired of it."

Does anyone go into journalism for money? "No," Cook says emphatically. "That is something that makes me think that a lot of reporters, or most of them, are a set above people who seek a career simply for money. Nobody stays in this business for money; they stay in it because they like it."

The press corps is highly competitive. "Getting a scoop" on the competition may be outdated terminology, but getting in print first is still uppermost in every reporter's mind. "We operate in a kind of two-level verbal jungle,"

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Caricature victims (from left): John Berthelsen, *Sacramento Bee;* Dan Walters, *Sacramento Union;* Otto Kreisher, *San Diego Union;* Jerry Gillam, *Los Angeles Times;* Rob Gunnison, *UPI;* Ginger Rutland, *Channel 4-San Francisco;* Bob Schmidt, *Knight-Ridder;* unidentified cameraman; John Stanton, *Peninsula Times-Tribune;* Claire Cooper, *Sacramento Bee;* Tom Woods, *Westinghouse.*

says Walters of the *Sacramento Union*. "We compete with each other, and in some cases the competition is very intense. We compete with everybody in the Capitol press corps; we (also) compete with our editors."

We can take a great deal of comfort in the fact that reporters feel this keen sense of competition. It helps immeasurably in keeping the news as accurate as possible. One reporter's inaccuracies become another reporter's good story. Rivalry in any industry tends to bring forth a better product or service for the consumer, and the news media are no different. If you think the press is slanted now, contemplate the bias that could emanate from only one source — especially if the press were governmentally controlled. A free press does not guarantee fairness, but it assures there is hope that truth will emerge.

Probably the strongest influence on the media is what reporters think of each other. Peer group pressure is intense, whether they like to admit it or not. One editor told me that peer attitudes among the working press are more important than what their editors, publishers, or wives think. Since "objectivity" is such a big deal, a reporter who constantly exhibits his or her bias becomes typed as not worthy of his or her colleagues' company. Such a reporter usually does not last long in the Sacramento press corps. "I think it is a positive pressure," says Cooper of *The Bee*. "It is a pressure to get there first and best."

Reporters view themselves, correctly, as professionals and they are proud of it. Rarely can the media expect kudos from the legislators; if we praised them, they would be highly suspicious and probably view us as posterior kissers. As a group, reporters are not terribly impressed with editors and sometimes view them as press failures, demoted upwards. The general public takes the news for granted and thinks what they pay for the paper is praise enough. Therefore, acceptance and recognition have to be internal matters and it is their peers who give out the accolades that count. Schmidt sums it up this way: "The word 'professional' has a very special meaning to me . . . They can write that on my tombstone — that is what I want out of it. I have chosen this career and I want to be respected by the people I work with. Like I say, it is important that you think I am fair, but more important than that to me is that my colleagues think I am worthy of the trade."

By contrast, reporters are not very concerned about what politicians think of them. They like to be liked — but not at the price of a good story. Egelko of the Associated Press recalls that he was "told very early by Willis when I came up here that one of the highest callings was to 'do a number' on somebody that you liked. By doing a number, I do not mean go out and get him, but doing some kind of an exposé, writing an embarrassing story on someone that you think it a good person, whether you approve of what they are doing in general . . . And I think he is right."

The press is constantly concerned over political attempts to use them. Some politicians are better than others at massaging the news to suit their desires. The press, often frustrated by the attempts that are made, also accepts them as a part of the business of reporting.

Climbing with class

"In this business you get lied to every day," Walters says, "not just at the Capitol, but no matter what you are doing. Whether you are covering city hall, the county supervisors, the police beat or court, lies become the commodity of your life. People lie to you. You know they're lying to you and sometimes they know you know they are lying to you. It gets to the point where lies themselves do not become offensive to you . . . just a part of the stock in trade of the business. But there are ways of lying. You start differentiating between the classy liars and the unclassy liars."

"Think how frustrating it is to know you are being manipulated and not be able to do anything about it," says Schmidt of the *Mercury News*. "That is more true of television (than of print reporters)." Schmidt recalls that Bob Simmons, formerly of KNXT-TV in Los Angeles, used to say that every time he turned his camera on Ronald Reagan, he felt like a Reagan campaign aide, because Reagan is so good on television. "But how do you *not* turn your camera on the governor of California?" Schmidt remembers Simmons asking. "Reagan comes out of that tube at home and he is dynamite, but how do you not do it?"

The attention a legislator gets is usually proportionate to how high he or she attempts to rise. No one pays much attention to a freshman assemblyman who falls in the jackass

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category. But if he or she seeks a more visible place in the Sacramento sun, the press looks upon that politician as red meat. If the press corps does not perceive any class, it is back to the ranks of 2 percent name identification for that politician — no class, no news. Reporters feel no burning desire to tell it the way the legislator wants, and many a public figure remains in obscurity because the press deems him unworthy of their attention.

What is news to a politician is often inconsequential to a reporter. Whether or not they like to admit it, newspapers are in the entertainment as well as the news business. John Balzar of the *San Francisco Chronicle* says his work is useless if it is not read. "I try to say what I would like to say to people who are interested in government," Balzar says. "My criterion is to make it interesting so people will read and understand those things government does that affect them."

Willis of AP has a favorite example of a reporter's concept of news. "After Reagan's gubernatorial re-election, at his news conference . . . he told us that he did not owe any state income tax for that last year. That certainly did not qualify as being important — by important I mean did it intrinsically change anybody's life out there? Obviously, it did not. However, it was news and that was at a 1:30 p.m. news conference . . . Nobody had time to talk to anybody, and there were six of us who were writing for the p.m. edition. Every single one of us, one way or another, used the phrase, 'Taxes should hurt,' which I do not think Reagan had uttered, probably not since the campaign in 1966. But the juxtaposition (was) of the man who said taxes should hurt (admitting) that they did not hurt him that year. From his point of view that was unfair coverage.

"Every one of us who wrote that first time around used that phrase. It was not that we all got together and talked about it . . . It just naturally went in the article"

It was once said, "Never argue with a man who buys ink by the barrel." Most politicians take this as gospel and reserve their complaints for their staff or understanding spouses, out of earshot of the press. Legislators are chronic complainers — if they were not, why run for office?

Reporters have a set of standards for those who seek higher public office. Elevation means exposure, the spotlight. Governor Brown's chief of staff, B. T. Collins, found that out when his typically irreverent rhetoric — including criticism of his boss — became statewide news soon after Collins' appointment to suceed Gray Davis. "That could happen to anyone, I suppose," says UPI's Gunnison. "But his position did become intrinsically more important. As jaded as we sometimes get about being around people at the top level of government and regardless of what you think of Jerry Brown as governor of California — he and his top aide have pretty damn important jobs in the United States. If someone is as indiscreet as he (B.T.) was, I think that reflects badly on the state. But you do come to expect better of people in higher positions.

"Probably the story on B.T. should have been done a long time ago," Gunnison says. "It just did not occur to people to bother to do it. But when he was the governor's chief of staff, that was news."

The missing 'left-wing'

The press likes to make the distinction between "liberal" and "left-wing," terms which conservatives feel are synonymous. The distinction is rarely observed by the press on the other end of the political spectrum. "We seldom use the term left-winger anymore," says Cook of the *Examiner*, because it is really pejorative and I think there have been some legal actions." What about the term right-wing? "This is generally a safe term, to say a guy is a conservative or a right-winger or an arch-conservative," Cook says.

The reluctance to use the term left-wing, I believe, stems from two bases. First, left-wing implies strong socialist leanings and an inclination toward the far left, the pro-Communist. It is a no-no to imply that, even though it may be true. Someone can advocate every leftist cause imaginable and rarely does the press refer to him or her as left-wing.

Now, if a politician is solidly for the death penalty, nuclear energy and increased military spending and against gun control, the press would not have any difficulty in identifying that politician as a strong right-winger. Right-wing is obviously the opposite of left-wing, so why is it okay to use one and not the other? If calling someone a left-winger is derogatory, why is right-wing not?

The second reason the press does not like to call legislators left-wing is that they tend to identify with liberal politicians more readily than they identify with conservatives. To call a person left-wing with whom you fundamentally agree is to label yourself. It is difficult to call someone a left-wing bowser if you come from the same ideological litter.

Labels will continue to be used by the media because they are necessary shorthand. When you try hard to cram 800 words into a 400-word article, descriptive adjectives are often the lever. However, omitting some labels and using others is censorship by omission.

I offer a few other insights into how certain members of the press observe conservatism:

- **When John Stanton** of the *Peninsula Times Tribune* was asked, "What does the word 'conservative' mean to you?" Stanton responded laughingly: "It is like pornography — it is hard to explain but I know it when I see it."
- **Looking at** press corps members as a group, I would place their philosophy distinctly left-of-center. But is this reflected in the articles they write? Do they use the powerful platform they possess to grind a set of values into the fabric of California politics? Very few do, in my opinion. Most of them try their best to be as accurate as they can. However, a person's thoughts, ideas and premises have a definite impact on how he or she views the world. Their political bent cannot help but affect what they perceive as news. But to accuse the news writers of conscious distortions to vent their personal bias is not correct.
- **Being a conservative,** I have a compulsion to come to conclusions, instead of letting the text speak for itself. I must add my slightly-to-the-right insight. The press leans definitely more left than right, but the intensity with which they pursue the elusive maiden of objectivity is a mark in their favor. They are opinionated, frustrated, egotistical. And, I believe, they are perceptibly moving to the conservative. The intellectual cocktail conversation of the '60s is passé. Today, instead of trying to save the world, the discussion among them is likely to be over the San Francisco '49ers, crab grass in the lawn or the alkalinity of the swimming pool. They hate to be categorized as more conservative, but in the final analysis they hate being categorized as anything.

What does the future hold for press/political relations? I expect the press to become much more critical of the legislative process; the gap will widen between the legislator and the press, and relations will become more hostile. This is the inevitable consequence of a free press and a government in chaos.

The Capitol press corps is hard-working, nosy, suspicious and skeptical of whatever anyone tells them. The legislators, by and large, do not love them or even like them. It is hard to cuddle up to someone whose career is predicated on exposing your political jewels, if the opportunity arises.

So, we co-exist with the haughty, superior *Los Angeles Times*, the probing denizens of the wire services and, last but not least, all of those lovely, objective, fair, impartial, good-looking, rational reporters who have a direct line into our local press.

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California Journal

Practical Guide to State and Federal Campaign Reform Laws

1982 - 1983 Edition

By VIGO G. (CHIP) NIELSEN JR.

Introduction

This fourth biennial edition of the *California Journal Practical Guide to State and National Campaign Reform Laws* is designed to help Californians who are not attorneys or accountants — and even some who are — cope with the ever-changing rules of the political game. The original 1976 edition was based primarily on the California Political Reform Act of 1974 and the legislation creating the Federal Elections Commission. Prior to the passage of those measures, Californians didn't have to pay much attention to the accurate and timely reporting of campaign financial activities. That is no longer the case. A great burden is now placed on the shoulders of those who participate in the political process in California. Those who fail to meet the ever-changing requirements of the law risk fines, embarrassment and possibly imprisonment.

The state Fair Political Practices Commission has prosecuted those who have made inadvertent errors. Several elected officials have had their reputations damaged because of alleged campaign-reporting violations. This booklet is arranged in a logical sequence with a question-and-answer format showing precisely who must file what, when and where. California recently enacted a major revision of its campaign law, and those changes are included in this pamphlet. Sources of more detailed information are listed on the back page.

We welcome comments and suggestions that will help us produce an even more useful fifth edition in 1984.

About the author

Vigo G. (Chip) Nielsen Jr. is a partner in the statewide political law firm of Dobbs and Nielsen. He is the author of the *Campaign Law Reporter Reference Manual* and many articles on political-reform law. He was assisted by researcher Robin Wonder of Dobbs and Nielsen. Previous editions of this guide were authored by Sacramento attorney Lance H. Olson and edited by Nielsen.

Reprints available

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CALIFORNIA LAW

What is the basic purpose of the 1974 Political Reform Act's campaign provisions?

According to the Act, the "receipts and expenditures in election campaigns should fully and truthfully be disclosed in order that the voters may be fully informed and improper practices may be inhibited." To accomplish that purpose the Political Reform Act requires candidates, committees supporting candidates for state and/or local office, and committees supporting or opposing ballot measures to file periodic reports disclosing detailed financial contribution and expenditure information.

Who must file

At what level of government does the Political Reform Act apply?

The Act applies to candidates, committees supporting or opposing candidates, elected officeholders, and committees supporting or opposing ballot measures at ALL levels of state and local government. Thus, candidates for school board as well as state office seekers are covered by the Act. Even elections to county central committees of political parties are included. And committees supporting or opposing county or city propositions are covered by the Act as are committees involved with statewide ballot-measure elections. Contributions supporting or opposing federal candidates are governed by federal, not California, law. Cities and counties may enact their own more restrictive campaign laws, including limitations on contributions to candidates. Local election officials should be consulted before any local government campaign activity is undertaken.

Who is an elected officeholder?

Any individual who holds a state or local elective office, by election or appointment, is an elected officeholder. This includes state, county, city, judicial, special district and county central committee offices.

Who is a candidate?

California law broadly defines "candidate" to include not only individuals who are listed on a ballot, but also individuals who

1. have qualified to have write-in votes counted,
2. have received a contribution or made an expenditure to get themselves nominated or elected to any elective office (even though they have not declared their candidacy for the office or later changed their minds),
3. have consented to permit other persons to receive a contribution or make an expenditure on behalf of themselves, or
4. are the subject of a recall election.

The definition of "candidate" includes not only winning but also losing and write-in candidates.

What is a committee?

Under California law there are three types of committees that must file campaign reports. An individual, firm, company, business, partnership, corporation, association, trust or any other organization or group becomes a committee by raising or spending money for the purpose of influencing voters for or against a candidate or ballot measure IF they do *any* of the following:

1. **Recipient Committee** — raise $500 or more in a calendar year.
2. **Expenditure Committee** — independently spend (as distinguished from contributing cash, checks, services, or something of benefit to a candidate or other committee) $500 or more in a calendar year.
3. **Major Donor** — contribute or loan $5,000 or more in a calendar year.

Most political committees are "recipient committees" because $500 is collected for later use in an election campaign. The "expenditure committee" is less common, but usually includes situations in which an individual or committee has decided to spend $500 of his/her/its own funds to support or defeat a candidate or ballot measure independently of the candidate or campaign committee. Examples include purchase of a billboard or newspaper advertisement. A person does not become an "expenditure committee" by donating $500 in non-monetary contributions (example: use of office space) to a candidate or committee.

"Major donor" committees generally are individuals or corporations contributing $5,000 or more directly to candidates or ballot-measure committees. This $5,000 threshold refers to the total of all contributions to all candidates (state or local) and committees in a calendar year.

Did recent legislation create a new type of committee called a "General Purpose" committee?

Effective January 1st, 1981, the name "General Purpose" was assigned to any committee involved in campaigns in more than one jurisdiction (usually political-action committees), providing a standardized filing requirement for such committees. All major donors are General Purpose Committees.

Must the committee register?

Only a Recipient Committee must register by filing a Statement of Organization (FPPC Form 410) with the Secretary of State within 10 days after it has qualified as a committee. The Secretary of State will assign it a number which must appear on all campaign reports. A Recipient Committee need register only once.

Can the committee amend its Statement of Organization?

Yes. In fact, if the information on the Statement of Organization changes, the Secretary of State must be notified within 10 days in writing.

When can a committee terminate?

Recipient Committees do not automatically terminate and may only terminate when:

1. they have ceased to receive contributions or make expenditures and do not anticipate receiving contributions or making expenditures in the future; *and*
2. they have eliminated or have declared that they have no intention or ability to discharge all their debts, loans received and other obligations; *and*
3. they have no surplus funds; *and*
4. they have filed all required campaign statements disclosing all reportable transactions.

Recipient Committees terminate only after they file the necessary termination statement (Form 415) with the Secretary of State's Office, with copies to the filing offices with whom campaign statements have been filed.

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Expenditure Committees and Major Donors automatically terminate at the end of each calendar year, but Expenditure Committees may still be required to file campaign statements for election activities commenced before the end of that calendar year.

Must a committee have a treasurer?

Yes. ALL committees (Recipient, Expenditure and Major Donor) must have treasurers. No contribution or expenditure may be accepted or made by a committee without a treasurer. The treasurer has responsibility for registration (if required), filing of campaign reports, receipt of contributions and approval of expenditures. In addition, the treasurer must keep detailed accounts, records, bills and receipts for all transactions. Personal funds may *not* be mixed with campaign funds. Contributions received by agents of the committee (i.e., paid staff and volunteers working for the committee) must be promptly reported to the treasurer, no later than the closing date of the next statement. Finally, treasurers, candidates and officeholders must sign under penalty of perjury that they have read their campaign statements and verify that they are true and complete to their knowledge. Any citizen can be a treasurer.

Must all candidates have committees?

No. There is no requirement that a candidate form a Recipient Committee on his or her behalf. However, the candidate must still file a campaign statement disclosing receipts and expenditures similar to that of a Recipient Committee. If the candidate does form a committee (example: Friends of Jones) and it registers with the Secretary of State, he or she must either file a Form 430 — candidate campaign statement (even though all contributions received and expenditures are disclosed on the committee's statement) or file a Form 490 — consolidated campaign statement covering the activities of both the candidate and the committee.

Must persons attempting to qualify a ballot measure (local or state) meet special filing requirements?

Yes. Proponents of proposed *state* ballot measures (persons who ask the attorney general for titles) must file campaign statements whether or not they succeed in qualifying the measures for the ballot and whether or not they qualify as "committees." Committees that support or oppose qualification also must file.

However, supporters and opponents of local and state ballot measures who do not qualify as "committees" are not obligated to file. If they do qualify as "committees," they must file statements whether or not the measures qualify for the ballot.

What must be disclosed

Are specific forms available to be used by those required to file?

Yes. The following forms must be used:

FORM 400: **DECLARATION OF FINAL CAMPAIGN STATEMENT.** For use by some committees as an attachment to a pre-election campaign staement when it is not anticipated that any additional contributions will be received or expenditures made in connection with an election, other than the June or November 1982 elections.

FORM 405: **AMENDMENT TO CAMPAIGN DISCLOSURE STATEMENT.** For amending reports previously filed.

FORM 410: **STATEMENT OF ORGANIZATION:** For use by Recipient Committees. Expenditure Committees and Major Donor Committees do not file Statements of Organization.

FORM 415: **RECIPIENT COMMITTEE TERMINATION STATEMENT.** For terminating a Recipient Committee.

Expenditure and Major Donor Committees do not use Form 415 because they terminate automatically at the end of each calendar year and must requalify in another year before they incur additional filing obligations.

FORM 420: **COMMITTEE CAMPAIGN STATEMENT.** Recipient committees which receive a cumulative contribution of $100 or more from a single source during a calendar year *must* file this form.

FORM 421: **VOLUNTARY REPORT OF NO ACTIVITY.** For use by committees which have no obligation to file in connection with an election. The purpose of the voluntary report of no activity is to assist local filing officers, the Secretary of State and the public in keeping an accurate assessment of which committees are currently active.

FORM 430: **CANDIDATE'S CAMPAIGN STATEMENT.** This form must be used by all candidates and elected officeholders not eligible to use the short Form 470, and who choose not to use Consolidated Form 490.

FORM 450: **RECIPIENT COMMITTEE CAMPAIGN SHORT FORM.** This form may be used by Recipient Committees if no single source contributed $100 or more cumulatively during a calendar year. If single-source contributions of $100 or more have been received, Form 420 or 490 must be used.

FORM 461: **EXPENDITURE AND MAJOR DONOR COMMITTEE CAMPAIGN STATEMENT.** For use by Expenditure Committees and Major Donor Committees.

FORM 465: **SUPPLEMENTAL INDEPENDENT EXPENDITURE REPORT.** For use by committees which make independent expenditures of $500 or more in a calendar year in connection with a single candidate or measure. This form must be filed *in addition* to any other report required to be filed.

FORM 470: **CANDIDATE AND OFFICEHOLDER CAMPAIGN STATEMENT SHORT FORM.** For use only by any candidates and elected officeholders who have neither raised nor spent more than $500, or on whose behalf not more than $500 has been raised or spent during the calendar year.

FORM 480: **SPECIAL ELECTION CAMPAIGN STATEMENT.** For use by General Purpose Recipient Committees that make contributions of $15,000 or more to support or oppose candidates or state ballot measures voted upon in a special election. This report will be filed at the same time and in the same places as if the committee were formed only to support or oppose such candidates or measures. This report is in addition to any other regular reports the committee must file, and information contained in it must be included in the next regular report.

FORM 490: **CONSOLIDATED CAMPAIGN STATEMENT.** For use by a candidate filing jointly with one or more of the candidate's committees.

Where can the forms be obtained?

The forms can be obtained from the Secretary of State, Political Reform Division, P.O. Box 1467, Sacramento 95807; the FPPC, 1100 K St., Sacramento 95814 or 107 South Broadway, Room 7007, Los Angeles 90012, and from local county and city clerks.

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What must be disclosed on a campaign statement?

In summary form, the total of all monetary contributions, unpaid loans, non-monetary contributions, payments, accrued expenses and cash on hand. In addition, separate schedules must be completed disclosing all monetary contributions received, all loans received and repaid (or forgiven), all non-monetary contributions, all pledges, all payments, all accrued expenses, and all miscellaneous adjustments to cash position.

Must certain transactions be disclosed in detail?

Yes. All contributions (see definition below) received from one source totaling $100 in a calendar year, and all disbursements of $100 or more must be itemized. Contributions (monetary, non-monetary and loans) from committees of $100 or more must include the date received, name and address of committee, the committee's registration number, the amount and the yearly cumulative amount to date. Contributions from others of $100 or more must list the date, name and address, occupation and employer of the contributor, amount and yearly cumulative amount to date. Expenditures of $100 or more must include the name and address of the payee, description of services and the amount.

What is a contribution?

The word "contribution" includes a payment, gift, advance, dues, loan, enforceable promise of money or anything of value (pledge), unless it is clear from the surrounding circumstances that it is not made for a political purpose. It includes purchases of tickets for dinners and other fund-raising events, the candidate's own money, discounts or rebates not available to the general public, services of an employee donated by his employer, forgiveness of a loan or payment of a loan by a third party, and a transfer of anything of value from one committee to another committee.

Does "contribution" include voluntary personal services?

No. A "contribution" does not include volunteer personal services provided without compensation and payments made by an individual for his or her own personal travel expenses, if these payments are made voluntarily, without any understanding or agreement that they will be repaid. Use of one's office or home for a campaign meeting or fund-raising event is exempt from the definition of contribution if the costs incurred are under $500 for the event.

How do you determine the value of a non-monetary contribution?

Use the fair market value of the goods or services contributed to the campaign.

May a contribution be received if delivered by someone other than the donor and the donor's identity is not clear from the face of the check?

Yes. But the person delivering the check, the "intermediary," must disclose to the committee the required identifying information not only about the donor but also about himself or herself, and the committee must disclose this information about the donor *and* the intermediary on its campaign statement.

What is a pledge?

A pledge is an enforceable promise (i.e., contract) to make a contribution to the campaign. Although the law does not specify, to be enforceable the pledge probably would have to be in writing.

Is a loan always a contribution?

A loan received by a committee or candidate is a contribution unless the loan is by a commercial lending institution made in the ordinary course of business. In that case, it is not a contribution and the bank need not worry about becoming a Major Donor Committee. Although a loan may not be a contribution, it must be reported by the candidate or committee if received for making political expenditures.

Can a committee refuse a contribution and not be required to report it?

Yes. A monetary contribution is not reportable: if it is not deposited and is returned before the next "closing date;" or if deposited and not $1,000 or more and not received during the last two weeks before the election, if returned within 72 hours of receipt; or if $1,000 or more and received during the last two weeks before an election and if returned within 48 hours of receipt.

How should expenditures made to an agent or independent contractor (e.g., an advertising agency) be reported?

Expenditures to an advertising agency (or anyone else who spends some of the income on others to provide the actual goods or services to the campaign) must be itemized to show both the person receiving payment from the campaign and the persons performing the service who receive $100 or more from the agency; or the agency must file its own campaign statement disclosing its $100-and-more payments on behalf of the committee. Thus, a payment of $5,000 to an advertising agency must show not only this expenditure, but also the entities actually providing the services (television and radio stations for advertising spots, for example). Overhead and normal operating expenses of the agency are not itemized.

What are accrued expenses?

Accrued expenses are those bills owed by the candidate or committee at the closing date for reporting campaign transactions. An expenditure is accrued when the goods or services are received.

What is meant by "cumulative amount"?

As noted above, certain contributions require the disclosure of cumulative amounts. Cumulative amount means the combined amount contributed or loaned from a single source during the calendar year. There are two exceptions to the calendar year determination of cumulative amount: 1) if a report is filed in one year in connection with an election in another year (not held on a regular June or November election date), the cumulation period will end with the closing date of the post-election report; and 2) if a ballot measure qualification effort extends into two years, the cumulating period ends on the closing date of the last statement filed in connection with the qualification effort (35-day post-qualification report).

If a person contributes less than $100 during one reporting period and later contributes enough to equal or exceed $100, must the contributor's identity then be disclosed?

Yes. Once a person's contributions to the committee equal or exceed $100 during a calendar year, he or she must be identified on the next statement. Monetary and non-monetary contributions and loans from one person must be added together to determine the cumulative amount.

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What is a closing date?

At the end of each reporting period a date is set through which all campaign transactions must be reported. Generally the closing date is five days prior to when the report is due.

Can campaign reports be amended?

Yes. Form 405 is specifically for this purpose. Amending an incomplete or incorrect report is considered evidence of good faith.

When to file statements

Amendments to the Political Reform Act, effective January 1st, 1981, changed the pre-election and post-election filing deadlines in connection with regular June and November elections. There are now four $500 "threshold" filing dates (report is due only if the threshold is reached) and two "semi-annual" dates on which statements are due. In even years, for General Purpose Committees involved in elections, the threshold is raising *or* spending $500; in odd years, the threshold is *spending* $500. Elections not held regularly in June or November have different filing deadlines, as explained in a later section.

How many campaign statements must be filed in 1982?

All candidates and committees must file statements on January 31st, 1982, July 31st, 1982, and January 31st, 1983, if the candidate or committee has received *any* contributions or made expenditures (including contributions to other committees) during the prior calendar six-month periods ending December 31st and June 30th. Elected officeholders must file such statements regardless of whether there has been any activity.

Additionally, candidates, officeholders and all committees will be required to file up to four "threshold" statements if they raise or spend $500 since the last report (except that during any six-month period in which a candidate or officeholder is not being voted upon, the candidate and supporting committees need not file threshold statements, if financial activity consists only of transactions made in connection with his or her campaign).

The filing deadlines for 1982 state elections follow:

1982 FILING DATES

Primary Election — June 8th, 1982
General Election — November 2nd, 1982

PERIOD COVERED BY STATEMENT

FROM	*THROUGH (Closing Date)*	*FILING DEADLINE*	
1/1/82	3/17/82	Threshold:	3/22/82
3/18/82	5/22/82*	Threshold:	5/27/82
5/23/82	6/30/82	Required:	8/2/82
7/1/82	9/17/82	Threshold:	9/22/82
9/18/82	10/16/82*	Threshold:	10/21/82
10/17/82	12/31/82	Required:	1/31/83

*See below for special reporting requirement for contributions and independent expenditures of $1,000 or more received after closing and before the election. The beginning dates on the chart above assume that each statement is being filed; if any threshold statement is not required, the beginning date is the day after the closing date of the filer's most recently filed report.

What are the filing dates in connection with elections other than June and November 1982 (primarily local elections) that do not have runoff elections?

Candidates, supporting committees and committees supporting or opposing ballot measures for elections not held on the first Tuesday after the first Monday in June and November of even-numbered years must file statements not later than 40 days prior to the election, not later than 12 days prior to the election and not later than 65 days after the election.

The closing date for each of the pre-election campaign statements is five days prior to the filing deadline. For the post-election report, the closing date is seven days prior to the deadline.

Such committees and candidates need not file threshold (and semi-annual) statements during the six-month period in which their election is held. General Purpose Committees that make contributions in connection with such local and special elections need only comply with regular threshold and semi-annual filing requirements, with one exception: If a General Purpose Recipient Committee makes contributions of $15,000 or more in connection with such an election, it must file a statement (Form 480 SPECIAL ELECTION CAMPAIGN REPORT) in the same places and at the same times as a single purpose committee involved only in that election.

Do separate filing dates apply to elections with runoffs?

Yes. A different schedule for the filing of campaign statements must be followed by other than General Purpose Committees in the case of any election for an office for which there is, or may be, a runoff within 60 days of the first election.

The pre-election statements are due:
- 40 days prior to the first election;
- 12 days prior to the first election;
- 12 days prior to the runoff, special or general.

The post-election statement is due:
- 65 days after the runoff, special or general.

The "closing date;" for the three pre-election statements is five days before the filing deadline. The closing date for the post-runoff statement is seven days before the due date.

A candidate who is unsuccessful in the special primary election and committees supporting *only* unsuccessful candidates need not file the campaign statement between the primary and the runoff. But the unsuccessful candidate and the committees must file a post-election statement no later than 65 days after the final election. If the entire election is decided in the first election, the post-election statment is due no later than 65 days from that date.

Must contributions and independent expenditures aggregating $1,000 made or received during the last few weeks before an election be separately reported?

Yes. If contributions or loans aggregating $1,000 or more are given or received after the closing date of the last campaign report filed before an election, but before the election, they must be reported within 48 hours. Both the donor (if a candidate or a committee) and the recipient must report the date, amount and full identification of the contribution by telegram, mailgram, or personal delivery (not by mail) to the filing officers where campaign reports were filed. The recipient of such a contribution must also report the name, address, occupation and employer of the contributor.

Independent expenditures aggregating $1,000 or more during this same period must also be reported within 48 hours. A committee which makes a late independent expenditure must identify fully the candidate or measure on whose election is being influenced by the expenditure.

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How many statements must be filed in odd-numbered years by candidates and committees?

In odd-numbered years all candidates, elected officeholders and committees file threshold statements (if they are involved in elections during that semi-annual period and raise or spend $500) and semi-annual reports just as they do in even-numbered years, with one exception: General Purpose Committees must file threshold statements only when contributions or independent expenditures of $500 or more are *made* during a threshold period.

Are there exceptions to the numbers of campaign statements which must be filed?

Yes. Elected officeholders whose salaries are less than $100 a month and judges need not file semi-annual campaign statements unless they receive contributions or make expenditure during the period.

A candidate of officeholder who receives or spends $500 or less may avoid filing any other statement if the candidate files a Form 470 CANDIDATE AND OFFICEHOLDER CAMPAIGN STATEMENT — SHORT FORM. This form contains a declaration to be signed by the candidate that to the best of the candidate's knowledge less than $500 has been or will be received or spent on his/her behalf.

What are the filing deadlines for proponents and committees supporting or opposing the qualification of a measure?

Committees supporting or opposing the qualification of a measure and proponents of a state measure must file campaign statements not later than 35 days after the deadline for filing petitions or the date of notification that the measure has either qualified or failed to qualify, whichever date is earlier. The closing date for such a statement is 7 days prior to the date when the statement is due. Such a committee will not be required to file semi-annual statements until after the post-qualification statement. Note: General Purpose Committees do not follow these deadlines and continue to file semi-annual statements and threshold statements when required. A single-purpose committee opposing passage of the measure (as distinguished from opposing qualification) does not file a 35-day post-qualification statement but files semi-annual statements, and — if the measure will be on a state ballot in June or November — threshold statements when required and — if on any other ballot — the pre- and post-election filings discussed above.

Where to file statements

Where must campaign statements be filed?

Except for city-only elections, always file two copies with the clerks of the county in which the person or committee is domiciled as determined by the address on campaign statement (out-of-state file in Los Angeles County), plus filings as follows, provided that no more than two copies go to any one county:

- Statewide officeholders, candidates, Supreme Court justices, state central committees of political parties, and their supporting committees, or committees supporting or opposing statewide measures:
  Original plus one copy with the Secretary of State, P.O. Box 1467, Sacramento, CA 95807; two copies with the registrar-recorder of Los Angeles County, Campaign Reporting Unit, 5557 Ferguson Drive, Los Angeles, CA 90022; two copies with the registrar of voters of City and County of San Francisco, Campaign Statements, Room 155, City Hall, San Francisco, CA 94102.
- Candidates for and members of the Legislature, Appellate and Superior Court, and State Board of Equalization and supporting or opposing committees:
  Original and one copy with the Secretary of State; two copies with the clerk of the largest county by registration which in whole or part is included in the election district (or officeholder's district).
- Other multi-county candidates and measures and supporting committees (but not statewide):
  Original and one copy with the clerk of the county having the largest registration.
- Single-county candidates and measures and supporting committees:
  Original and one copy with the county clerk.

Single-city candidates and measures and supporting committees file an original and one copy with the city clerk.

How may the statements be filed?

Campaign statements may be delivered by hand by the deadline. Statements sent by first-class mail are considered received on the date of deposit in the mail. If lost in the mail, the candidate or committee must possess a post-office receipt showing that the report was mailed.

Prohibitions

Are anonymous contributions prohibited?

Donors cannot make anonymous contributions of $100 or more in a calendar year to a single campaign. Any anonymous contribution of $100 or more received by a candidate or committee must be turned over to the Secretary of State.

Does California law limit cash transactions?

Yes. No monetary contributions or expenditures of $100 or more may be made in cash. Transactions of $100 or more must be made by check or other instrument containing the payee's or donor's name. The fair market value of all non-monetary (in-kind) contributions of $100 or more must be reported in writing by the contributor to the recipient, if the recipient makes a written request.

Are lobbyist contributions prohibited to state candidates?

Not any longer. The California Supreme Court has struck down that part of the law which previously prohibited lobbyist contributions to state candidates. But, by regulation, a lobbyist must report personal contributions or contributions of others personally delivered to legislators on his or her quarterly lobbying report. Lobbyists may also contribute to candidates in local and federal elections and to ballot-measure campaigns.

What must be printed on campaign materials?

The California Elections Code requires that the name and address of the person responsible or, in the case of committees registered with the Secretary of State, the name and address of the committee, be on almost all printed campaign materials (brochures, letters, lawn signs, etc.). However, an appellate court has ruled this provision invalid, and the California and United States Supreme Courts denied petitions to hear the case.

Are there rules governing mass mailings by campaigns?

Yes. All mass mailings (200 or more pieces of identical

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material mailed in a calendar month) must show on the envelope and at least one insert piece the sender's name and address in a six-point type or larger. A post office box is permitted if the committee address is a matter of public record with the Secretary of State. The sender is whomever pays for the mailing. The validity of the provision is unclear in light of the appellate decision mentioned above.

Are there limitations on what anyone may contribute to a candidate or ballot measure campaign?

California law imposes no restrictions on how much any one person or organization may give to a political campaign at the state or local level. Unlike federal law, corporations and labor unions are not prohibited from contributing to state or local races by state law. Nor are candidates limited in what they may give to themselves. However, some local jurisdictions have restricted the amount persons, corporations and unions may contribute in local candidate elections. Ballot-measure contribution limitations were declared unconstitutional by the United States Supreme Court in December 1981. (See federal restrictions below.)

Does California law restrict expenditures by campaigns?

Candidates and supporting committees may spend unlimited amounts in connection with the election. But 1981 legislation prohibits campaign and political action committee funds to be spent for personal use and restricts the disposition of surplus funds when a committee terminates to a number of specified, non-personal uses.

Does federal law apply to California state or local candidate contributions?

Normally not, except that federal law prohibits a foreign national, foreign corporation, United States national bank, federal government contractor or federally established corporation, like a federal savings and loan association, from making any contributions to a state or local candidate.

Miscellaneous

Must candidates and committees be concerned with tax considerations?

Yes. Any income over $100 per year (interest, dividends, sale of assets, etc.) earned from contributions requires the payment by the candidate, officeholder or committee of both federal and state income taxes. Also, certain Internal Revenue Service and California Franchise Tax Board rules must be followed to allow contributors to take the tax credit permitted under federal law and the deduction allowed under California law.

Will campaigns be audited?

Audits and investigations must be made with respect to the reports and statements of:

Each statewide, supreme court, court of appeal, or Board of Equalization candidate in a direct primary or general election for whom it is determined that $25,000 or more in contributions or expenditures have been raised or made, whether by the candidate or by committees controlled by the candidate. Each statewide candidate whose contributions and expenditures are below $25,000 shall be subject to audit on a 10-percent random basis.

Each candidate for the Legislature or superior court judge in a direct primary or general election shall be subject to audit by random selection if it is determined $15,000 or more in contributions or expenditures have been received or made, whether by the candidate or by committees controlled by the candidate. Random selection shall be 50 percent each of the Senate and Assembly districts and judicial offices contested in an election year.

Each candidate in a special primary or legislative runoff election for whom it is determined that $15,000 or more in contributions or expenditures have been received or made, whether by the candidate or committees controlled by the candidate.

Each controlled committee of any above candidate who is being audited.

Each committee (other than major donor) primarily supporting or opposing an above candidate being audited if the committee spent more than $10,000.

Each committee (other than major donor) whose participation is primarily in support of or opposition to a state measure if the committee spent more than $10,000.

Each committee (other than major donor or those primarily supporting or opposing a candidate or measure) if the committee raised or spent more than $10,000 in a calendar year supporting or opposing candidates or measures shall be subject to audit by a random selection of 50 percent of such committees.

Must candidates disclose certain personal financial activities?

Yes. California law requires financial disclosure of investments and real property by candidates and income, investments and real estate holdings by officeholders at both state and local levels.

Are campaign laws at other levels of government applicable?

Yes. Many California local governments have enacted comprehensive campaign ordinances which add regulations beyond the Political Reform Act. The local ordinances should not be overlooked.

Special reference package:

An almanac and two pamphlets for $5

For a limited time, the California Journal Press is offering three resource publications on California government and politics for $5. The package includes:

- **The 1979-80 California Journal Almanac of State Government and Politics,** 184 pages of basic reference material. (A new Almanac will not be published until early in 1983).
- **Reapportionment 1981,** the new *California Journal* pamphlet on the reapportionment plans enacted by the Legislature last year,
- **The 1982 California Journal Roster and Government Guide,** the new 16-page booklet with the names and numbers of all the important elected and appointed officials in Sacramento — and much, much more.

If bought separately, these three items would cost $6.94. You can save $1.94 by sending $5 to the California Journal Press, 1714 Capitol Ave., Sacramento 95814. Ask for the $5 reference package.

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FEDERAL LAW

What is the basic purpose of the Federal Election Campaign Act?

The federal law requires candidates, political committees and, in some instances, individuals to keep full and accurate records of political financial transactions and to file periodic public reports disclosing these transactions. The law also sets limits on the amount of money individuals and groups may contribute to federal candidates. It further provides public financing for qualifying presidential campaigns.

Who administers the Federal Election Campaign Act?

The Federal Election Campaign Act is administered by the Federal Election Commission (FEC), 1325 K St. NW, Washington, D.C. 20463. In addition, the clerk of the House of Representatives and the secretary of the Senate, Washington, D.C. 20510, have filing-officer responsibilities.

Who must file

Who must file campaign statements under federal law?

Only candidates seeking nomination or election to federal office (President, Vice-President, United States Senate and House of Representatives), political committees supporting those candidates, and certain private groups involved in federal elections (business, union, trade association, political-action committees and issue committees) are governed by the filing requirements of the Federal Election Campaign Act.

Are candidates for state or local office and their committees required to file federal campaign statements?

No.

What constitutes an "election" under federal law?

The term election includes not only general, primary, special and runoff elections, but also conventions, caucuses and preference primaries.

Who is a federal candidate?

An individual who seeks nomination or election to a federal office and has received contributions or made expenditures in excess of $5,000 or has consented to that level of campaign activity on the individual's behalf is considered a candidate. Thus, even if a candidate appears on the ballot, he or she need not register or report until the dollar threshold is met. However, once the individual reaches the $5,000 figure, all prior contributions and expenditures become subject to the reporting and limitation requirements of the Act.

Are federal candidates required to designate campaign committees for reporting purposes?

Yes. A candidate for federal office (other than a nominee for vice president) must designate and authorize a political committee as the "principal campaign committee" within 15 days after attaining candidate status. The candidate may also designate other committes, known as "authorized committees," to receive or make contributions. Candidates are considered to be agents of their authorized committees, and therefore must report all contributions and expenditures through their committees. The principal campaign committee and other authorized committees must include the names of the candidates in the committees' names. In addition, the principal campaign committee may not support more than one candidate (except that committees may conduct joint fund-raising), although contributions of $1,000 or less by a candidate's authorized committees to other candidates are permitted.

What is a political committee?

Federal law defines these three types of political committees:

1. Any committee, club, association or group of persons receiving contributions or making expenditures totaling more than $1,000 for federal elections in a calendar year (similar to California's recipient committee).

2. A Political Action Committee (known as a separate segregated fund) established by a labor union, corporation, or trade or membership organization regardless of the level of contributions or expenditures.

3. Any local committee of a political party which receives contributions or makes "exempted" expenditures (buttons, bumper stickers, voter registration, get-out-the-vote and the like) totaling over $5,000 for federal elections during a calendar year, or which makes contributions to candidates or "non-exempt" expenditures over $1,000 for federal elections during a calendar year.

Federal law does not define as committees persons or groups which directly contribute money (California's Major Donor Committee) or which independently make expenditures on behalf of a candidate (Expenditure Committee in California). However, some persons making independent expenditures may still have to report. The FEC has sub-defined several types of political committees, including:

1. **Principal campaign committee.** "Principal campaign committee" means the political committee designated by a candidate as his or her principal campaign committee.
2. **Single candidate committee.** "Single candidate committee" means a political committee other than a principal campaign committee which makes or receives contributions or makes expenditures on behalf of only one candidate.
3. **Multicandidate committee.** "Multicandidate committee" means a political committee which (i) has been registered for at least 6 months; (ii) has received contributions for use in federal elections from more than 50 persons; and (iii) (except for any state political party organization) has made contributions to 5 or more federal candidates.
4. **Party committee.** "Party committee" means a political committee which represents a political party and is part of the official party structure at the national, state or local level.

In addition, the FEC has determined that all political committees are either authorized committees or unauthorized committees. An "authorized committee" is a political committee which is empowered in writing by a candidate to solicit or receive contributions or make expenditures on behalf of the candidate. A principal campaign committee is authorized. An "unauthorized committee" is a political committee which has not been authorized in writing by a candidate to solicit or receive contributions or make expenditures on behalf of the candidate.

Separate Segregated Fund Committees (Political Action Committees) must use the name of the connected or spon-

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soring organization in the name of the committees.

Must a political committee have a treasurer?

Yes. Contributions may not be received when there is a vacancy. Further, all expenditures must be authorized by the treasurer or appointed agents. The treasurer is responsible for keeping an account of all contributions and expenditures, and for the timely and accurate filing of reports. Personal funds may not be co-mingled with campaign funds. Contributions over $50 must be forwarded to the treasurer or agent within 10 days of receipt, with the contributor's name and address. A committee needs no other officer under federal law but may designate others, including an assistant treasurer.

Must political committees register?

Yes. All authorized committees must register within 10 days after designation by a candidate. PACs must register within 10 days of establishment. All other committees must register within 10 days of qualification as a political committee. A committee registers by filing a Statement of Organization.

Political committees supporting only House candidates and a House candidate's authorized committees, including the principal campaign committee, register with the clerk of the House. Political committees supporting only Senate candidates and a Senate candidate's authorized committees including the principal campaign committee, register with the secretary of the Senate. All other committees register with the FEC. Once a committee registers, it will be issued an identification number.

Must a person (other than a political committee) file a campaign statement with the Federal Election Commission?

Any individual, association, partnership or group which makes an independent expenditure (independent from a political committee or candidate) of more than $250 in a calendar year must file a campaign statement with the FEC. The statement contains information regarding the nature of the expenditure.

An expenditure is independent if it is for a communication expressly advocating the election or defeat of a federal candidate which is not made in cooperation or consultation with a candidate or authorized committee of that candidate.

If a person makes a payment on behalf of a federal candidate or political committee, that candidate or committee must report it and the person need not file a campaign statement.

Note: A political committee may also make independent expenditures and, if it does so, must report these on a separate schedule of its campaign report.

What must be disclosed

Are forms available for persons required to file?

Yes. Forms are available from the FEC, Clerk of the House and Secretary of the Senate.

Form 1 — STATEMENT OF ORGANIZATION: Used to register committees supporting federal candidates.

Form 2 — STATEMENT OF CANDIDATE: Once attaining federal candidate status, use this form to authorize principal campaign committee.

Form 3 — REPORT OF RECEIPTS AND EXPENDITURES: Used by political committees in reporting all financial transactions including contributions and expenditures. There are separate forms for presidential (Form 3P), authorized (Form 3) and all other political committees (Form 3X).

Form 5 — REPORT OF INDEPENDENT EXPENDITURES OR CONTRIBUTIONS BY PERSONS: This is the form used by every person (other than a political committee or candidate) who makes independent expenditures or contributions in an aggregate amount in excess of $250 within a calendar year.

Form 7 — REPORT OF COMMUNICATION COSTS BY CORPORATIONS AND MEMBERSHIP ORGANIZATIONS: This form is used by corporations, unions, and membership organizations to report costs of communicating with their stockholders and executive or administrative personnel or members in support or opposition to a federal candidate if such costs exceed $2,000 per election.

What information is required to be reported by a political committee?

In summary form, the total of all contributions, expenditures and cash on hand.

By item, all transfers and contributions to and from other political committees or federal candidates regardless of the amount.

By item, all contributions aggregating over $200 within a calendar year — including contributor's name, mailing address, occupation, employer, date of contribution and amount. (In addition, in-house records must be kept of all contributions over $50 — including name, address and date of contribution.)

By item, all loans (including guarantors) and loan repayments, including date, name, address, occupation and employer, and amount, regardless of the amount.

By item, all rebates, refunds, dividends and interest over $200 within a calendar year — including name, address, date and amount.

By item, all expenditures for operating expenses over $200 during a calendar year — including the recipient's name, address, date and amount and purpose of expenditure.

The amount and nature of debts owed to or by the committee.

What constitutes a contribution under federal law?

Any gift, subscription, loan, advance or deposit of money, or anything of value, made for the purpose of influencing federal elections is a contribution. A "contribution in-kind," such as the use of office space, machinery, equipment, or the help of individuals donated by or paid for by a person other than the committee or candidate is also a contribution.

How are non-monetary or in-kind contributions treated?

Non-monetary contributions, such as lending an automobile, employee, typewriter or giving paper and stamps, are subject to the same prohibitions, limitations and reporting requirements as monetary contributions. Non-monetary contributions should be evaluated at their usual and normal charge.

Are loans always contributions?

A loan is generally a contribution to the extent that the obligation remains outstanding. However, a loan of money by a national or state bank made in the ordinary course of business is not a contribution (although it must still be reported). To be considered made in the ordinary

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course of business, the loan must be in writing, subject to a due date or amortization schedule and bear the usual interest rate.

Are there other exceptions to the definition of contributions?

Yes, including voluntary personal services; unreimbursed travel expenses by campaign volunteers up to $1,000 per election; rental value of one's home; cost of invitations, food and beverages voluntarily provided at an individual's home up to $1,000 per election, and legal and accounting services rendered for the purpose of complying with federal election laws.

What do expenditures include?

Expenditures that must be reported include payments of money, transfer of funds to another political committee, repayment of loans, and written contracts to make expenditures.

What is "cumulative amount" under federal law?

"Cumulative amount" means the amount contributed or expended since January 1st of the present calendar year. Each calendar year is considered separate, and the only carry-over to a successive calendar year is the beginning cash balance.

If a contributor has already been listed in a previous report, and additional contributions of any amount are received from that contributor *within the same calendar year,* the contributor must be listed on the prescribed reporting forms, using the same name as previously reported and showing the new amount and cumulative amount.

When to file statements

How many reports must be filed in a federal election?

Candidates do not file separate reports. All contributions and expenditures are reported by the principal committee (consolidated with all authorized committees). In election years, committees authorized by House and Senate candidates file quarterly reports (15 days following the close of the quarter), a pre-primary report (12 days prior, or 15 if by mail), a pre-general report (12 days prior, or 15 if by mail), and a post-general report (30 days after the election). In non-election years, authorized committees file semi-annual reports due July 31 and January 31.

Monthly filing is required in an election year for all authorized committees of a presidential candidate if the committees have received or anticipate receiving $100,000 or spent or anticipate spending $100,000. All other presidential committees in election years are required to report quarterly. In non-election years, authorized committees of presidential candidates may elect to report either quarterly or monthly.

All other political committees may file monthly, or in election years, for every election in which they have spent funds they may file quarterly, pre-primary, pre-general and post-general election reports, and in non-election years, semi-annual reports.

REPORTING PERIODS FOR REGULAR 1982 ELECTIONS

DEADLINE	PERIOD COVERED
Jan. 31, 1982	July 1 - Dec. 31, 1981
Apr. 15, 1982	Jan. 1 - March 31, 1982
May 24, 1982*	Apr. 1 - May 19, 1982
June 8, 1982**	Primary Election
July 31, 1982	May 20 - June 30, 1982
Oct. 15, 1982	July 1 - Sept. 30, 1982
Oct. 18, 1982*	Oct. 1 - Oct. 13, 1982
Nov. 2, 1982**	General Election
Dec. 2, 1982	Oct. 14 - Nov. 22, 1982
Jan. 31, 1983	Nov. 23 - Dec. 31, 1982

*If a contribution has been made to a federal candidate in the pending election since the most recent quarterly filing. If filed by mail, deadline is 3 days earlier.

**See below for reporting of contributions received of $1,000 or more since the most recent filing.

Must "last-minute contributions" be reported in a special manner?

Yes. Contributions of $1,000 or more received by a candidate or his/her authorized committee subsequent to the 20th day but more than 48 hours before an election must be reported by the candidate's principal campaign committee within 48 hours by hand-delivered letter or by telegram disclosing the contributor's name, occupation and employer, amount, date and office sought. Unlike California law, the donor of such contribution need not also file such a report.

Independent expenditures of $1,000 or more during the last 20 days must be reported within 24 hours.

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Where to file reports

Where must campaign reports be filed?

Authorized committees of a candidate file reports with the candidate's principal campaign committee. The principal campaign committee then files a single report for that campaign. House candidates' principal campaign committees file an original with the clerk of the House of Representatives, Washington, D.C. 20515. Senate candidates' principal campaign committees file an original with the secretary of the Senate, Washington, D.C. 20510. All other committees file an original with the Federal Elections Commission, 1325 K St., NW, Washington, D.C. 20463, including multi-support committees and persons making independent expenditures. The House clerk and Senate secretary immediately forward copies of all their reports to the FEC. In addition, a copy of all reports must be filed with the Secretary of State of each state when a candidate in that state is supported.

How may reports be filed?

In all cases except for the pre-election report (12 days prior to an election), reports may be hand-delivered or sent by registered or certified mail and postmarked by the filing deadline. Pre-election reports must be hand delivered 12 days before the election or postmarked not later than the 15th day before the election.

Prohibitions and limitations

Does federal law limit cash contributions?

Yes. No one may make a cash contribution which totals more than $100 to a federal candidate.

Does federal law impose contribution limitations on individuals?

Yes. There is a $1,000 limit on the amount an individual may contribute to a single federal-office candidate's authorized committee (including the principal campaign committee) in the primary and $1,000 in the general election campaign. (Each presidential primary is treated as a single election as are runoff and special elections.) There is a $5,000 limitation on contributions to any other political committee, except that the limit is raised to $20,000 for contributions to national party committees. Also, there is a $25,000 limit on the total amount an individual may contribute to all federal candidates and committees in a calendar year.

How do the contribution limitations apply to spouses?

Even though one person in a single-income family has contributed $1,000 to a candidate for an election, the other spouse may similarly contribute $1,000 to the same candidate for the same election.

What are the contribution limitations imposed on political committees?

The limitations are the same as for individuals. However, multicandidate committees (defined above) may contribute up to $5,000 to a federal candidate in a single election.

Are campaign expenditure limitations imposed by the federal law?

No. As originally adopted the law did limit campaign expenditures. However, the United States Supreme Court in *Buckley v. Valeo* held that such expenditure ceilings impose "direct and substantial restraints on the quantity of political speech" and as a result violate the First Amendment to the United States Constitution. But presidential candidates who accept public funding for either the pre-nomination or the general-election campaign must abide by the spending limits found in the Act.

Are there personal-contribution limitations imposed on the candidate?

No. Spending money on your own campaign has been defined as an expenditure. Thus, candidates (except for presidential candidates using public financing) may spend unlimited amounts of personal funds. (Note: The FEC has complex regulations defining personal funds.)

Does federal law impose limitations on the total amount persons or committees may spend independently but on behalf of federal candidates?

No. Because of the United States Supreme Court's *Buckley* decision there is no limitation on a truly independent expenditure made on behalf of a federal candidate. Thus, there are no limits on what a person or committee may spend, for example, for direct purchase of newspaper ads to influence an election, if done independently of the candidate. (See above for reporting of independent expenditures by persons.) In early 1982, the United States Supreme Court narrowly upheld a lower-court ruling prohibiting any limitations on committees making independent expenditures in presidential campaigns in which the candidate had accepted public funding.

Are contributions or expenditures by corporations or labor organizations on behalf of federal office seekers allowed?

No, but corporations and labor organizations are permitted to establish separate political funds (commonly called PACs) if the donations are voluntary. However, certain political expenditures are allowed. For example, funds may be spent for communication by a corporation or union to its stockholders or members respectively on any subject, and non-partisan registration and get-out-the-vote efforts aimed at stockholders or union members are permitted.

Costs of communications expressly advocating the election or defeat of a candidate must be reported if over $2,000 per election.

What other restrictions are applicable?

Contributions to federal, state or local candidate campaigns by national banks, government contractors and foreign nationals (who do not have permanent residences in the U.S.) are all prohibited, as are anonymous contributions of $50 or more.

Is campaign literature for a federal office required to contain certain information?

Yes. All literature and advertisements soliciting contributions and all communications advocating the election or defeat of a federal candidate must identify the person or committee which paid for the solicitation or communication. If the solicitation or communication is not authorized by the candidate or his/her committee, it must so state.

Does the Federal Elections Act place a limit on the amount of honoraria elected federal officials may receive?

Yes. Acceptance of honoraria for individual speeches, appearances or articles in excess of $2,000 is prohibited.

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Miscellaneous

Does the federal law require candidates and office-holders to disclose publicly their personal finances under so-called conflict-of-interest?

No. Unlike California law, federal candidates and office-holders are not required to file public financial disclosure statements. United States senators and members of the House of Representatives do, however, file confidential disclosure statements under Senate and House rules (as must candidates for Senate).

Must federal candidates and political committees be concerned with tax considerations?

Yes. And any income over $100 per year (interest, dividends, sale of assets, etc.) earned from contributions is subject to payment of income taxes by the candidate, officeholder or committee. Also, certain Internal Revenue Service and California Franchise Tax Board rules must be followed to allow contributors to take the tax credit permitted under federal law or the deduction allowed under California law.

Sources of detailed information

STATE

Fair Political Practices Commission, P.O. Box 807, Sacramento 95804. (916) 322-5662

Campaign Law Reporter (500-page loose-leaf state and federal manual, monthly newsletter, interpretation of FPPC and FEC regulations and opinions, special bulletins and telephone quick-query service) 1225 Eighth St., Sacramento 95814. (916) 444-0329

Regulations: California Administrative Code, Title 2, Division 6. Department of General Services, Documents Section, P.O. Box 20191, Sacramento 95820.

Continuing Education of the Bar, 2150 Shattuck Ave., Berkeley 94720, official reporter of Fair Political Practices Commission opinions and publisher of "Law and Politics" book. (415) 642-3973

FEDERAL

Federal Election Commission, 1325 K St., NW, Washington, D.C. 20463. (800) 424-9530

Campaign Practices Reports (manual and monthly newsletter), 2814 Pennsylvania Ave., NW, Washington, D.C. 20007. (202) 887-8500

Campaign Law Reporter (see above).

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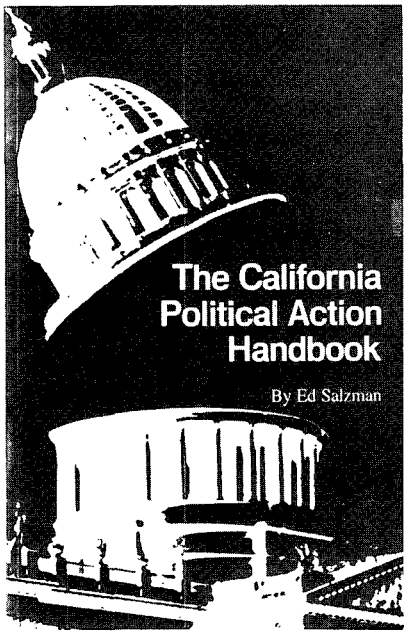

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CAMPAIGN '82

Will the redistricting ruling boomerang against Democrats?

By ED SALZMAN

On the surface, it appears that California Democrats won a major victory at the end of January when the state Supreme Court adopted Democratic reapportionment plans for this year's legislative and congressional elections. But it could turn out that the 4-3 court decision will trigger a series of political events that will hurt the Democratic Party deeply in the years to come. The pivotal question: Can the Republicans convince enough Democrats and independents that the GOP was treated unfairly by a partisan Legislature and a partisan Supreme Court majority?

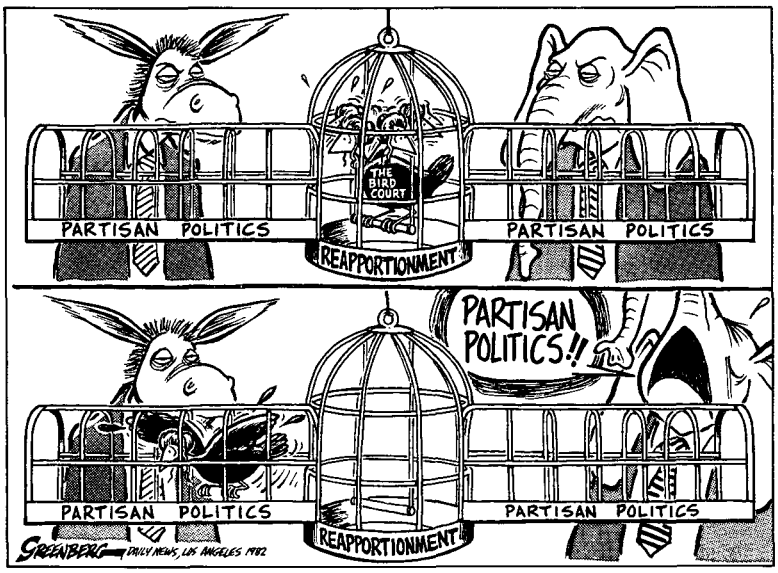
These are among the possible ramifications of the reapportionment decision:

- ***Republicans may wage*** an all-out campaign this fall to remove two new justices — Allen Broussard and Cruz Reynoso — from the court. Even without such a campaign, Reynoso figures to have difficulty with some voters because of his Hispanic name and the opposition to his appointment by law-and-order forces. Broussard was one of the four justices who formed the majority in the legislative redistricting decision.
- ***The GOP may become*** a party to efforts to remove Chief Justice Rose Bird from the high court by recall. Republican leaders are targeting such a possible recall effort for 1983 to prevent Jerry Brown from appointing a successor in the event the recall is successful.
- ***The court's decision*** intensified the efforts of those trying to qualify a reapportionment-commission initiative for the ballot in November. The creation of a bipartisan redistricting commission would probably in the long run hurt the Democrats. That's why the GOP has joined forces with Common Cause in sponsorship of the measure.
- ***Reapportionment is now*** an issue that may be used to advantage by Republicans during the 1982 campaign. On a statewide basis, GOP candidates can talk about unfair treatment from the Democrats. At the local level, Republicans can accuse Democrats of gerrymandering the landscape to benefit favored potential candidates. Should the voters approve the Legislature's reapportionment plans (Propositions 9, 10 and 11) in June, the Republicans would be able to use redistricting as an argument for the election of a GOP governor in November. They could assert that only a Republican in the governor's office would provide a guarantee against a partisan Democratic redistricting for the rest of the decade.

If the Republicans should be successful in changing the complexion of the state Supreme Court, electing a GOP governor and reforming the reapportionment process, the Democrats could hardly be considered the long-range victors of this year's monumental reapportionment struggle. For the moment, however, it is quite clear that the court majority handed to the Democrats 1982 districts which are likely to produce Democratic majorities in the Senate and Assembly, plus significant gains in the congressional delegation. In fact, should the national contest for control of the House of Representatives be tight, California's redistricting plan could be the crucial factor in Democratic retention of the House.

The 'least disruptive' course

The Supreme Court was unanimous in its decision that the Legislature's lines must be used for the state's 45 congressional districts — even though they are being challenged by the GOP referendum this June. The court was also unanimous in deciding that the three referenda should go to a vote of the people. The 4-3 split came on the issue of whether the old or new Senate and Assembly lines should be used.



Chief Justice Bird, who wrote the majority decision, said that there was no practical alternative to the two new sets of legislative lines. She argued that if the new lines can be used for Congress, they can also be used for the Legislature. The old lines violate the one-man, one-vote concept and are thus in violation of the state constitution; that consideration overrides the state's referendum provisions, she wrote. She called the use of new lines as a temporary expedient for the 1982 elections the "least disruptive" course, because no changes will be needed if the Republican referenda are defeated. Her opinion was also signed by Justices Frank Newman and Broussard as well as retired Appellate Justice Stephen K. Tamura, assigned to the case by Bird. Republicans were surprised that Tamura went along with Bird because he was viewed as a rather conservative justice, more in the mold of Otto Kaus, who voted with the minority.

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Justice Frank Richardson wrote the dissenting opinion, claiming that the court should have followed precedent and used the old legislative lines, as was done in 1972. He argued that the law allows greater flexibility for legislative than for congressional redistricting. He asserted that Bird's plan will be the most disruptive alternative if the legislative plans are rejected by the people. And he emphasized that a new set of lines would presumably be drawn in 1983 by a Legislature elected in districts that had been rejected by the voters. The dissent was signed by Justices Kaus and Stanley Mosk, who added their own brief opinions.

Mosk, the state's senior justice, ended his opinion with this comment: "I cannot resist suggesting that a better solution to achieving equitable reapportionment must be found if the people of California are to be served effectively. What that solution should be is beyond my ken. But the wrenching experiences of 1971 and 1981 indicate the people and their representatives should tarry no longer in seeking an answer." It is obvious that none of the justices relishes the task of serving as arbiter of the most political of political conflicts every 10 years or less.

The court decision was handed down just in time to prevent a major rearrangement of the 1982 election timetable. By acting before the end of January, there was no need to change the dates for the filing of declarations of intention to run or of nomination papers. However, the court did make available 24 additional days to candidates desiring to obtain signatures in lieu of the filing fees.

The court decision also eliminated some political alternatives because it affected the plans of potential candidates for a variety of offices. For example, it foreclosed a run for re-election by Congressman Bob Dornan, who had already entered the United States Senate race. (Dornan's district was virtually eliminated.) But its greatest impact was on legislative races because there had been general agreement in advance of the decision that the court would probably accept the new congressional districts. The main question was whether the justices would follow the 1972 *Reinecke I* formula in the 1982 *Assembly vs. Deukmejian* case.

Here are some of the most interesting districts to watch in the June primary:

House of Representatives

District 12 (lower San Francisco Peninsula) — With Republican Pete McCloskey running for Congress, this should be a wide-open GOP primary, with plenty of green flowing.

District 18 (Fresno and environs) — This district was supposedly made to order for Democratic Assemblyman Rick Lehman, but gifts of this type are often stolen by others.

District 21 (Thousand Oaks-Chatsworth region) — The theoretical incumbent is Republican Bobbi Fiedler, but she is moving into new ground occupied by Barry Goldwater Jr. and may find the GOP primary something other than a formality.

District 22 (Glendale, Arcadia and other GOP communities in Los Angeles County) — Two GOP incumbents, Carlos Moorhead and John Rousselot, now represent this area. Moorhead may get a federal judgeship, eliminating intra-party warfare. Otherwise, Rousellot and Moorhead may go at each other. Moorhead knows more of the territory, but Rousselot is the superior campaigner.

District 26 (Van Nuys, Sherman Oaks) — This district was created for Assemblyman Howard Berman, who figures to have an easy time joining his political partner, Congressman Henry Waxman, in Washington.

District 27 (Santa Monica and Los Angeles beaches) — The favorite in this district is another member of the Waxman-Berman organization, Assemblyman Mel Levine.

District 30 (Alhambra, Monterey Park, Montebello and vicinity) — Incumbent George Danielson is headed for the bench, and his successor should be an Hispanic Democrat like Assemblyman Marty Martinez.

District 33 (Claremont, Covina, Whittier) — Incumbent Wayne Grisham has a solid GOP district, and his prime concern is a challenge by fellow Republican John Rousselot should Carlos Moorhead not get a federal judgeship.

District 34 (La Puente, Pico Rivera, West Covina) — Redistricting mastermind Phil Burton created this seat for an Hispanic Democrat, but former Congressman Jim Lloyd could be a major factor in the Democratic primary. Esteban Torres, formerly of the Carter White House, may seek this seat.

District 43 (Southern Orange County, northern San Diego County) — Incumbent Clair Burgener is retiring, and the GOP primary should be mighty interesting.

District 44 (Democratic San Diego County) — This district was created for a Democrat, and there could be plenty of competition in June.

State Senate

District 6 (City of Sacramento) — Conservative Republican John Doolittle will try to survive by running for this seat, even though he has two more years to run in his current term. The Democrats are trying to avoid a primary battle, and Assemblyman Leroy Greene is the likely nominee.

District 10 (Southern Alameda County) — Incumbent John Holmdahl was named to the bench, and two assemblymen — Bill Lockyer and Gib Marguth — are headed for battle.

District 12 (Stanislaus County, Milpitas, east San Jose) — This district supposedly was created for Assemblyman Alister McAlister, who no longer lives in the area. Wide-open battles could be forthcoming in both party primaries.

District 18 (Coastal Ventura and Santa Barbara counties) — With incumbent Democrat Omer Rains running for attorney general, two members of the Assembly could do battle in November. Democrat Gary Hart made an early commitment, and Republican Charles Imbrecht appears ready for the race as well.

District 20 (Van Nuys, San Fernando) — The incumbent is Democrat Alan Robbins. Can he survive anticipated strong opposition both in June and November?

District 22 (westside of Los Angeles) — Incumbent Democrat Alan Sieroty is retiring, and the heavy artillery is lining up behind Assemblyman Herschel Rosenthal.

District 24 (East Los Angeles) — The Democratic battle between incumbent Alex Garcia and Assemblyman Art Torres is already the most ferocious in the state.

District 32 (Westminster, Garden Grove) — This Orange County district was drawn for Assemblyman Richard Robinson, who has since decided to remain in the Lower House. Look for good com-

Newsmakers

Associate Justice **Frank Newman** is expected to resign from the state Supreme Court this summer and return to teaching at the University of California at Berkeley, Governor Brown has indicated. Newman issued a statement tending to confirm the governor's statement. If Newman leaves before the end of the year, his successor will be nominated by Brown . . The governor named Congressman **George Danielson** of Monterey Park and state Senator **John Holmdahl** of Castro Valley to the state Court of Appeal.

Two veteran Democratic legislators, Senator **Alan Sieroty** of Beverly Hills and Assemblyman **John Thurman** of Modesto, announced that they will not seek re-election . . . **Mario Obledo** resigned as state Health and Welfare secretary, presumably to mount a campaign for governor. He was replaced by **Douglas Patino,** director of the Employment Development Department.

Other appointments by the governor: **Kenneth J. Wagstaff** of Davis, director of the Department of Mental Health; **Ernest L. Brazil** of Foster City, commissioner of the Department of Real Estate.

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Excerpts from the reapportionment case

Majority opinion by Chief Justice Rose Bird:

"It is with great reluctance that this court enters a dispute more properly resolved in the political environs of the state Legislature and at the ballot box . . . Every member of this court agrees, and most parties concede, that the old, out-dated district plan of 1973 is unconstitutional and may not be used for the congressional elections. The only alternative open to the court is the reapportioned districts adopted by the Legislature and approved by the Governor. If the 1981 congressional reapportionment plan must of necessity be used in the 1982 elections, it is clear that there are no compelling reasons why the 1981 reapportionment statutes governing the Assembly and Senate should be discarded for the old, unconstitutional districts. This temporary plan allows the primary and general elections to be held in districts that more nearly comply with the constitutional mandate of one-person, one-vote . . . The adoption of the old districts by this court would have the detrimental effect in the future of encouraging anyone who does not like a legislative reapportionment plan, for whatever reason, to look immediately to the courts to undo it . . "

Dissenting opinion by Associate Justice Frank Richardson:

"While a federal statute may require our temporary adoption of the 1981 *congressional* redistricting statute, neither any statute nor overriding principle justifies the majority's complete disregard of the constitutionally ordained stay or the immediate imposition of the stayed legislation upon *state* legislative districts . . . States are permitted *reasonable* flexibility in adopting and implementing their reapportionment plans, thus permitting *reasonable* delays attributable to referendum challenges . . . Are one person, one vote principles to be so strictly applied as to deny the people themselves their own right to approve or disapprove reapportionment legislation *before* such legislation takes effect? . . . The legislative districts should remain exactly as they were until the people have spoken."

Dissenting opinion by Associate Justice Stanley Mosk:

"One need not be a cynic to detect the hypocrisy in the political gamesmanship known as reapportionment . . . Neither party has a monopoly on virtue. As a result, every 10 years hereafter we may be compelled to endure a gubernatorial veto or a referendum sponsored by the party out of power . . . and to that extent the legislative and political processes of this state will become periodically impotent . . ."

petition in both party primaries. Either party could win in November.

District 40 (Democratic San Diego) — With the retirement of former Senate President pro Tempore James Mills from the Legislature, the leading candidate to succeed him is veteran Democratic Assemblyman Wadie Deddeh.

Assembly

District 2 (North Coast) — Should incumbent Democrat Doug Bosco run for Congress, both party primaries could be wide open.

District 6 (central Sacramento County) — With incumbent Democrat Leroy Greene likely to be running for the Senate, the early talk centered on Republican Sandra Smoley, a county supervisor, and City Councilman Lloyd Connelly of Sacramento.

District 10 (portions of Sacramento, San Joaquin and Contra Costa counties) — This is the so-called "wishbone" district supposedly created for Mayor Phil Isenberg of Sacramento. This could be one district in which reapportionment is an issue.

District 14 (San Leandro, Hayward) — Incumbent Democrat Bill Lockyer expects to be running for the Senate, and the Democratic primary could bring out a large field.

District 25 (Gilroy, Salinas) — This is a new agricultural district with a heavy Hispanic population. It is not safe for either party, and the primaries could be hectic.

District 27 (Stanislaus County, Atwater) — Democrat John Thurmond of Modesto is not seeking re-election, opening the flood gates for June and November.

District 29 (Central Coast) — With Republican Carol Hallett running for lieutenant governor, the GOP primary figures to be fascinating. Democrats have little chance in November.

District 31 (Fresno) — Incumbent Rick Lehman is running for Congress, and the Democratic primary should be the whole ball game.

District 32 (Mariposa County, parts of Madera, Fresno, Tulare) — Veteran Republican Gordon Duffy is running for secretary of state. Under his old district, the Democrats would have had a decent chance of capturing the seat. The seat will be hotly contested, but the GOP primary winner will have an advantage.

District 33 (part of Bakersfield, Delano, Taft) — Democrats constructed this district to oust Republican Don Rogers, who may run for the Senate. On paper, this is a Democratic district with a strong Latino flavor.

District 35 (Santa Barbara, Santa Paula) — With incumbent Democrat Gary Hart expected to run for the Senate, both party primaries will be important. This is environmentalist county.

District 36 (Ventura area) — If Republican incumbent Charles Imbrecht runs for the Senate, the GOP primary should produce his successor.

District 43 (Beverly Hills, Studio City) — Money will flow like Manischewitz wine in this district being abandoned by Democrat Howard Berman, who is running for Congress. Gray Davis, formerly Jerry Brown's chief of staff, has raised a small fortune, but he will face heavy competition in the Democratic primary.

District 44 (Santa Monica area) — This will be the most publicized district in the state. The departure of incumbent Mel Levine to run for Congress opened the door for Tom Hayden, who has a chance to win. How many other Democratic candidates will divide the anti-Hayden vote?

District 51 (Palos Verdes, Torrance, Manhattan Beach) — Republican incumbents Marilyn Ryan and Gerald Felando were both placed in this district. Ryan represents most of the area, but Felando is a ferocious campaigner.

District 52 (Whittier area) — Republicans only need apply for this seat, held by Dave Stirling, a candidate for attorney general.

District 56 (East Los Angeles) — A Democratic Hispanic will win this seat, now held by Art Torres, who is running for the Senate. The leading early contenders are Richard Polanco and Gloria Molina, both with excellent political connections.

District 68 (Riverside County) — Democrat Walter Ingalls has held this seat for years. With his retirement and with alterations in the district, both party primaries will be important.

District 75 (coastal San Diego County) — This new district was made to order for a Republican environmentalist.

District 76 (inland San Diego and Riverside counties) — A conservative Republican should win in both June and November, but will the victor come from the Palm Desert or Escondido areas?

District 78 (northern portions of the city of San Diego) — Democrat Larry Kapiloff has held this seat for years through personal rather than party popularity. If he gets a judgeship or runs for statewide office, anything could happen.

District 80 (Imperial County, National City, Chula Vista) — Heavily Hispanic, this district is represented by veteran Democrat Wadie Deddeh, who is headed for the Senate. Both party primaries will be important because this is not a safe Democratic seat.

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Anatomy of an electorate: 75% faithful, 25% fickle

By TONY QUINN

The snow is flying in the Sierra Nevada and the candidates are stirring on the hustings. But before any television commercials are taped, direct mail composed, hands shaken or babies kissed, three-quarters of the votes are as good as cast and counted for the 1982 elections.

No one can predict who will win, but it is a demographic fact of California politics that 75 percent of the vote is already known and that the behavior of about three-quarters of the electorate can be determined fairly easily. Therefore, all the hubbub and costs of the coming campaign are really aimed at the remaining 25 percent.

California's fabled "volatile electorate" is a lot more stable than many politicians realize. Clear patterns of voter behavior can be determined, particularly when the electorate is broken down into its component parts — something which political-campaign staffs rarely do. Instead, politicians and their advisers live by polls, those "snapshots in time" that supposedly tell them how the campaign is progressing. Today's pollster does for campaigning what the Oracle at Delphi did for the ancient Greeks. The Greeks used to beg the Oracle to foretell the future and, being a wise oracle, it did so in vague terms, leaving just enough mystery about its reply to maintain credibility. Obfuscation of facts was a specialty of the Oracle at Delphi, and the technique has come down through the centuries into modern politics.

Pollsters do not claim the ability to predict an election; indeed, they stress the point that predicting is not their function. They do, however, claim that they can tell who might win "if the election were held today" — which it is not.

Polls make or break bandwagons with regularity and lend to politics a perception of volatility which may not, in fact, be there. The modern campaigner is so taken with poll results that he often forgets he is dealing with separate and distinct constituencies whose response to political appeals is fairly predictable.

Polls suggest a wide gyration in politics which may also be overstated. In 1980, we watched Kennedy lead Carter by 30 points, then Carter lead Kennedy by 30 points, then Reagan lead Carter by 30 points. Just a week before the election the Gallup Poll had Carter ahead by three points, and nearly everyone ended up surprised by the final Reagan landslide. Statisticians rushed about to explain why the polls were so far off.

Computing the 'base vote'

There is another way to look at politics, particularly in California. It involves dividing the electorate into its various constituencies and examining the behavior of each one. One easy division is into the two major parties, with which about 88 percent of the electorate identify themselves. Roughly 53 percent of California voters are Democrats and 35 percent Republicans, according to party registration. It must be added quickly that voter registration has little to do with the results on election day, since fewer and fewer Californians vote their party line. But it does provide a way to compute the "base vote" of the two major parties, which is the percentage that their candidates can always count on.

California does not produce landslide elections in contested statewide races in which both parties make a major effort. Even the big winners of the past few years — Governor Jerry Brown in 1978, President Reagan and Senator Alan Cranston in 1980 — amassed vote percentages in the middle to high 50s. The two parties are balanced evenly enough that runaway elections simply do not happen unless one party runs an underfinanced unknown against an entrenched incumbent. At the top of the ticket this does not happen.

In every top-of-the-ticket race or hotly contested election in California in the past decade, one pattern has been clear: The Democratic candidate has not received less than 40 percent nor more than 57 percent of the vote; the Republican never got less than 36 percent nor more than 55 percent. There is a clear "competitive zone" into which both parties fall. It includes 40 to 60 percent of the two-party vote for the Democrats and 35 to 55 percent for the Republicans.

The bottom end of the competitive zone represents the "base vote" for both parties. With only one exception, no Democratic candidate has received less than 40 percent of the statewide vote in the past decade. As a matter of fact, the two weakest Democrats haven't even been Californians: Senator George McGovern in 1972 who received 41.5 percent and President Carter in 1980 who received 40.5 percent of the two-party vote. (Carter actually received 35.9 percent of the total vote, but a big chunk of the John Anderson vote was a part of the basic Democratic constituency.)

So the average Democratic candidate for state office can count on having about 40 percent of all votes locked up even before he or she starts campaigning. It's not hard to see where this 40 percent comes from. Roughly one-fifth of the California electorate is non-white, and it gives an overwhelming vote to the Democrats. California's blacks, who traditionally vote in large numbers, rarely give a Democrat less than 95 percent of their vote. The Hispanics will almost always vote about 75 percent Democratic; Asians provide a healthy although generally smaller margin.

To that minority vote, add most of the state's Jewish vote, low-income whites and old-fashioned "brass-collar Democrats," and the total is close to 40 percent of the electorate. Republicans don't run liberal campaigns in California, and they rarely if ever seriously compete for this chunk of the electorate. Even if they did, they probably would get only a small piece of it.

But on the other end of the political spectrum, there is a Republican vote that is nearly as reliable. The Republican party, accounting for 35 percent of the state's registrants, is surprisingly homogeneous, consisting of middle- and upper-income voters, usually white-collar workers and mostly Protestants. While the Republican percentage of the statewide party registrants fell during the 1970s, the vote still remained solid, and there are still very few registered Republicans who switch to vote for Democratic candidates. Most

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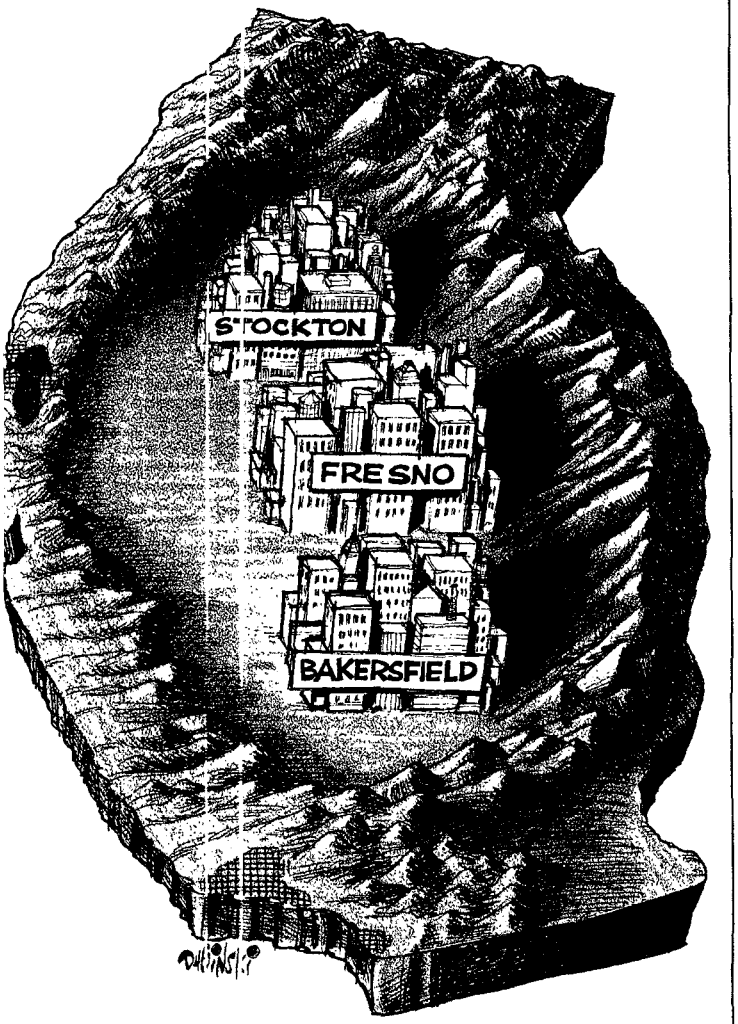
Swing-voter map of California



Republican candidates can count on 80 to 90 percent of the Republican vote.

Republicans can also count on a sizeable number of voters who remain registered Democrats but rarely cast ballots for Democrats. This is an older element of the electorate, including migrants from the South whose ties to the Democratic party are ancestral rather than philosophical.

This mixture of regular Republicans and renegade Democrats gives Republican candidates a "base vote" about equal to their registration average, a vote they can always depend upon. Paul Gann in 1980 and Evelle Younger in 1978 received 37.1 and 36.5 percent of the vote, respectively, in their losing campaigns — a good indication of the base Republican vote.

So what is left? That 25 percent of the electorate which cannot be predicted. It consists of three elements:

- ***A small number*** of Republicans, persons who may register Republican for social or economic reasons rather than because of political ideology;
- ***Most of the state's*** independents, among whom a lower percentage votes than among party registrants;
- ***A major portion*** of the Democratic electorate which, in certain circumstances, bolts from the party.

These Democrats are the most interesting segment of the California electorate. They are a source of unending frustration to Democratic campaigners and a beacon of hope to Republicans. About one in four Democrats falls into this category. It provides the classical "swing voters" who really decide California elections. When they stay with their party, the Democratic registration majority assures a Democratic triumph. But when they desert, the two-party registration figures are meaningless, and both parties are on equal footing.

These swing voters are indeed fickle: In 10 statewide elections, from 1976 through 1980, Democrats have won five times and Republicans have won five times.

The smart politician goes looking for this vote and generally finds it in two areas: the Central Valley and the working-class, inner suburbs of the metropolitan areas. The rural vote was once the backbone of the Democratic Party, but as that party became more liberal and urban-oriented, the rural vote was cast afloat. Rural Democrats are usually first- and second-generation Californians; many came to California from the dustbowl states of the South and Southwest where the Democratic party was their natural home. They register that way but don't always vote that way.

Almost without exception, the candidate who carries Bakersfield, Fresno and Stockton carries the state. U.S. Senator S. I. Hayakawa beat John Tunney in 1976 by running up a big lead in the rural counties. In 1980, San Joaquin County, with a 56 percent Democratic registration, gave Ronald Reagan 55 percent of its vote. When the rural Democrats defect, Republicans almost always win.

The urban vote is easier to categorize: In the inner cities it is Democratic by a landslide; in the outermost suburbs it is Republican, roughly equivalent to party registration. In between there is a ring of generally white, working-class suburbs where the Democratic registration bulge is meaningless.

Take, for instance, cities like Lakewood and Bellflower in southern Los Angeles County, with Democratic registrations of 60.6 and 58.7 percent, respectively. Richard Nixon handily carried these two cities in 1972, but they swung back to the Democrats in 1974 and favored Jerry Brown in both 1974 and 1978. Both went for Hayakawa in 1976 and gave Reagan a majority approaching 2-to-1 in 1980.

These Democrats, usually blue-collar whites, tend to be very conservative on social matters and on government spending which they view as benefiting groups other than themselves. But on taxation and income-distribution issues, they are more liberal than the average Republican, and they resent concentrations of power and wealth, faults which they see in both parties.

Ronald Reagan appealed to their frustration with big government, and he has carried the conservative Democratic vote in every campaign he has run in California. But these voters are still New Dealers at heart, and whenever Republicans come across as the party of "economic royalists," as Franklin Roosevelt relished calling the GOP, the working-class Democrat comes home.

The candidates' chances

The successful politician in 1982 will examine these varied constituencies and base his or her campaign on putting together enough of the swing vote to win. But the path to victory is sometimes elusive.

For a candidate like Tom Bradley, for instance, the political mix suggests that being black is, if anything, a political advantage. It reinforces his support among all elements of the basic Democratic constituency, except possibly among Hispanics, and gives him maneuvering room to appeal to swing Democrats.

Bradley's success in Los Angeles has resulted from his ap-

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pearing conservative enough to satisfy the whites in the San Fernando Valley who are typical conservative Democrats, while doing nothing to unsettle his basic liberal constituency. Since he is black, liberal Democrats will allow him to run a far more conservative campaign than a white candidate might get away with. Bradley's task is just reassuring his own party.

But he had better not bank on his current big lead in the polls, for California polls early in a campaign are notoriously inaccurate. They probably reflect the fact that, early in an election year, people tend to respond according to party registration.

As late as May 1978, Mervyn Dymally led Mike Curb 42 to 25 percent in the California Poll, and Yvonne Burke led George Deukmejian for attorney general 39 to 26 percent. The *Los Angeles Times* poll showed Burke ahead of Deukmejian by 45 to 33 percent in late September, and Dymally leading Curb for lieutenant governor by 42 to 39 percent. In November Curb and Deukmejian beat their opponents by comfortable margins. Analyses of the returns show that both Republicans won by eroding votes from the rural and working-class Democratic blocs.

For Curb the dynamics of 1982 may prove to be his greatest problem, because he must again prove himself to the middle-income Democratic voter. Nothing turns off working-class Democrats faster than the appearance of being a "rich man's candidate." Most people agree that Senator Tunney's image of jet-setting off to ski in Switzerland (instead of minding the senatorial store) probably did him in. Curb's image as the candidate of the Republican rich could set off voter disaffection from which he could not recover, despite the money he might spend to overcome it.

Deukmejian may have the best chance — and the worst. He has a natural appeal to conservative swing Democrats on the crime issue. But he lacks the one element they have always looked for in their candidates: excitement. For a disloyal Democrat to abandon his party, he needs more than an intellectual appeal. That must be underscored by an emotional one.

Reagan, the great communicator, set a theme that scored for him in the bars and bowling alleys. Deukmejian's task is to take stands and actions which reinforce the natural inclination of the conservative Democrat to cross over for him.

The battle of 1982 is just beginning, but all its sound and fury will have only one goal — to win the hearts and votes of 25 percent of the California electorate.

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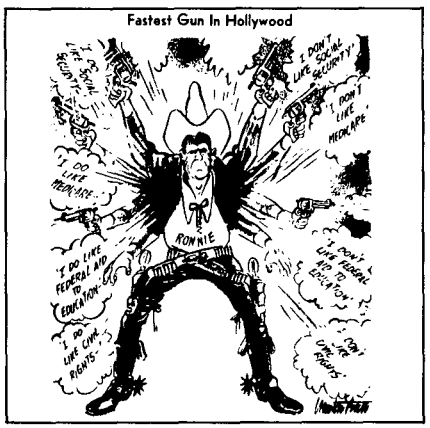
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Agency secretary Schenk: ambitious San Diego commuter

PHOTOS BY TERI BOLIN

By KERRY DRAGER

For months the confirmation of Lynn A. Schenk as secretary of Business, Transportation and Housing was stalled in the Senate Rules Committee. At issue was her attitude toward her controversial Caltrans director, Adriana Gianturco. Schenk stood firm, refusing to promise to fire Gianturco — and the committee withheld her endorsement.

Although Schenk finally was confirmed last July, nine months after being nominated, the subject still stirs Schenk's memories of her confirmation being held hostage. "Anyone who knows me knows that was absolutely the wrong tack to take," she says. "They are to pass on the qualifications of the person before them, and not to use that as a bargaining chip for something else they want. Well, you know, it goes on anyway. But it went on with the wrong person."

Despite the controversy, Lynn Schenk has become a bright star in a lame-duck administration that has generally fallen from grace among many legislators. Some observers believe that she has an eye on elective office, perhaps a congressional seat in a new San Diego County district — a goal she denies, at least for the present. In the meantime, Governor Brown's 36-year-old cabinet secretary enjoys considerable admiration in Sacramento for her abilities as a problem-solver and for her candor.

"I think she believes in analyzing problems and coming up with solutions," says Senator John Foran of San Francisco. "That's very true in the transportation field, where we had a lot of trouble for a while. She has accepted the responsibility, examined the issues, realized that there was a problem and dealt with it — even though it was sometimes difficult to deal with." Adds a Republican, Senator Ray Johnson of Chico, "She has fine credentials. She seems to be a sensible person, down to earth and very intelligent."

Before joining the Business and Transportation Agency as a deputy under Secretary Alan L. Stein, Schenk was an attorney for San Diego Gas and Electric Company. She also helped to found the Women's Bank of San Diego, the California Women Lawyers and the Lawyers Club of San Diego. And, as a White House Fellow, she served on the staffs of Vice Presidents Nelson Rockefeller and Walter Mondale.

When Stein resigned in 1980 to return to private business in San Francisco, Schenk was named to succeed him. She heads an agency with about 30,000 employees and more than a dozen departments in business (such as Banking, Real Estate and Alcoholic Beverage Control), transportation (Caltrans, Motor Vehicles, Highway Patrol) and housing (Housing and Community Development, California Housing Finance Agency). "The jurisdiction is as diverse as the departments," says Schenk, "so you can't have a philosophy to guide the entire agency. You must have philosophies, if you will, for the various areas." Including:

- **Business.** "I have tried to have the departments strike a realistic, appropriate balance between the needs of the regulated industry and the needs of the people we're trying to protect, the consumers. I also have tried to minimize the number of regulations — not because it's fashionable to say, 'Let's get government off our backs,' but because we have reached a point in some areas where the regulations were either no longer necessary or archaic, and were difficult to enforce, particularly in light of Proposition 13."

- **Housing.** Schenk likes to talk about the gains in the area of "manufactured housing," or mobile homes. She considers it a major source of affordable housing. "I would like to continue encouraging localities to provide for this kind of zoning," she says. "I don't think it's overstating to say that it's revolutionary what we have done in the manufactured-housing area in the past 12 to 15 months." She cites legisla-

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tion and new programs to make manufactured housing more acceptable to the lending community and to local government. Before, a mobile home was taxed by the Department of Motor Vehicles as a vehicle. Today, it comes under the jurisdiction of Housing and Community Development and, in many cases, may be taxed as real estate, thus benefiting the coffers of local government.

- **Transportation.** In January, Caltrans Director Adriana Gianturco unveiled a five-year, $10.2 billion state transportation program, which increased funding for new highway projects, maintenance and rehabilitation of existing freeways, and mass transit. "The gas-tax increase covered the shortfall (said to be anywhere from $900 million to $1.5 billion) that we were facing," says Schenk. But, she adds, Caltrans is inherently controversial, with legislators from throughout the state vying for freeway projects.

"I think some controversy will always be there," notes Schenk. "It's cyclical, too. At some points the tension level is very high and at other times it's low. But I think this program will go a long way toward softening some of that. Nevertheless, there were a lot of projects proposed that we just couldn't fund. So there are some unhappy people."

The governor's attention

As agency chief, she has had her share of controversies. Last year, for example, two top Insurance Department officials claimed they had quit at least in part because Schenk eliminated regulations designed to protect the mortgage insurance industry. They said that Schenk, without telling them, issued her own emergency regulations doing away with the safeguards.

But it was her confirmation that generated the most publicity. A key figure in the scenario was Republican state Senator Ray Johnson, who switched sides and voted for her. "The problem was not with Lynn Schenk," says Johnson. "The problem was with Adriana Gianturco and her philosophies. And strong Democrats like (state Senator) Barry Keene felt that the only way to get the governor's attention was to hold up some appointments. She happened to be one of them. But it was nothing to do with her ability or character."

Even now, months later, Schenk has some strong words on the subject of her hearing: "There are some issues that you can't compromise, issues of principle. It is non-negotiable, period. There was no way that I would try to get the senators involved to bargain for less or to get Adriana to change her position. I just would not do it . . . No job is worth enough to me that I would try and get it at the expense of someone else."

Controversy aside, the word on Schenk seems to be more positive than negative. Democratic Assemblyman Bruce Young of Cerritos admits to some "fundamental" disagreements with Schenk when she worked under Stein over the role government should play in the regulation of the banking and savings and loan industry. But now he feels that she's more understanding of the business community.

"Prior to her taking the job (agency secretary), I might have thought she was more of a liberal activist in the area of government regulation versus business," says Young. "However, now I feel that Lynn has gained an understanding of the business community. She is at least sensitive to the problems it faces and tries to work with them."

Young also has some good words about Schenk's work on the Century Freeway project, the 17.2-mile Los Angeles roadway that has been more than two decades in getting approved. (Critics joked that it was appropriately named because it would probably take 100 years to complete.) "She was very aggressive and took the lead back in Washington, trying to get the Reagan Administration to build the Century Freeway," says Young.

Transportation consultant Arthur Bauer, a former legislative aide, says that Schenk's top deputy, Peter Oswald, is a key to her popularity. "When there's dissatisfaction, Pete handles it. That enhances her image even more. Pete's willing to be sort of the sponge that absorbs the problem and, at the same time, he's capable of finding reasonable solutions. In the long run, this keeps the heat off Lynn and makes the whole program look better — as well as making Lynn look good."

Dugald Gillies, lobbyist for the California Association of Realtors, adds that Schenk tries hard to avoid controversy. "She doesn't rock the boat unless she sees that there is something specifically to be gained by doing so."

The dissenting view

Still, not everyone applauds Schenk's efforts. Says one Capitol observer who declined to be identified: "I used to work for the Legislature, and I was fairly critical of her then. I know I am in the minority and that many people are impressed with Lynn's talents. I am not."

A former Business and Transportation Agency official is also one of Schenk's detractors. "Lynn was very dictatorial," he recalls. "She assumed a lot of authority over the agency which, in my view, had never really been intended to be invested in the secretary. Anything which influential business wanted, it got — through her. I don't think she actually understood the substance of the issues before her. And she was not really interested. She was just interested in making points with whatever constituency she thought could serve her."

Schenk accepts such criticism philosophically: "When you're in a position like this, not everybody's going to love you. If that is a need you have — to be loved by everyone — this isn't the job for you."

Schenk commutes on weekends to her home in San Diego where her husband, Hugh Friedman, practices law. "It's a tough way to have a marriage," she admits. "It's been a hardship on my personal life, but it's one that's been well worth it, because it has been so satisfying professionally."

However, with the Brown Administration on its way out next year, she says she will be ready for a change. For a while Schenk considered running in one of the new congressional districts that Republican Phillip Burton mapped out for Democrats in San Diego County. But last summer, Schenk reportedly was given the cold shoulder by Burton in an attempt to discuss with him her plans. Then, late last year, Schenk said she had decided against such a race, citing personal reasons. "It just wasn't a time in our lives when my husband and I wanted to be apart any more than we are now," she says. "Secondly, I find my present position very exciting and I didn't want to cut it short . . . And last, I feel that citizens should spend time both in government and the private sector, rather than going from government job to government job. I want to get back to that touchstone."

The notion that Schenk might make a bid for higher office reportedly had set off a scramble among the higher-ups within the agency. Schenk's sudden turnaround caught many off-guard. "It has, to some extent, affected the agency," notes one lobbyist. "I think there were people within the agency who had anticipated she would move on and they would then have an opportunity to move up. But she surprised most people by deciding to stay where she is."

So, for the present, Schenk will remain one of the more influential women in the Brown Administration. Says lobbyist Edward Gerber, "The general opinion is that she's quite capable — and also that she has accessibility to, and is listened to, by the governor on things, both as to their content and their political import."

And at age 36, she has plenty of political years ahead of her.

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Profile of a program: $1 in benefits, $6 for salaries

By TINA LAM

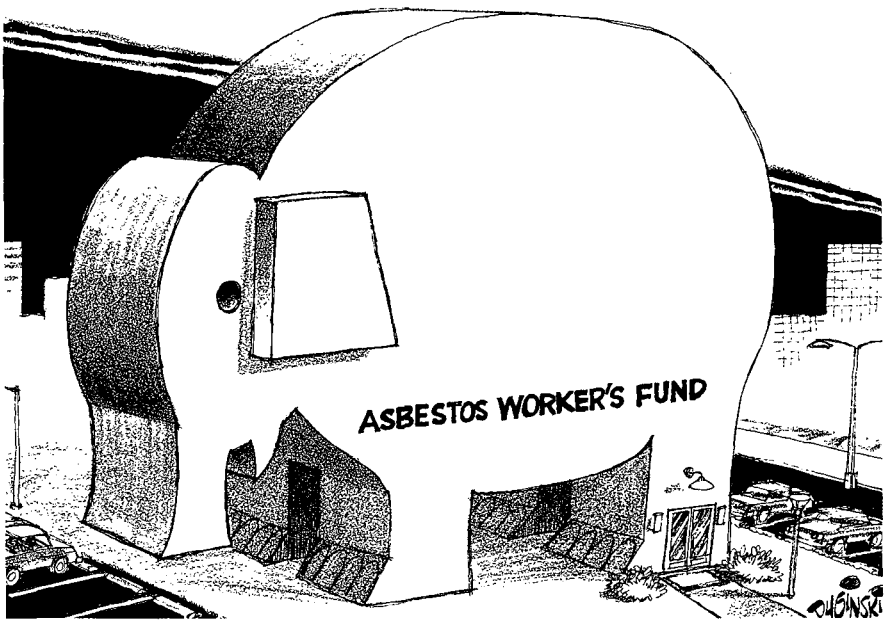
California has good news and bad news for thousands of disabled asbestos workers. The good news is that the state has the only asbestos workers' benefit program in the country. The bad news is that the program doesn't work. In fact, the Asbestos Workers Fund has become something of a white-lung white elephant, a piece of legislation with which even its author, Assemblyman Art Agnos, is unhappy.

In its first year the fund has compiled a dismal record: By December, nearly a year after the program began, only eight people were receiving benefits totaling $19,500. By contrast, more than six times as much — $125,000 — went for staff salaries and administrative costs. Another $12,000 had been paid for medical examinations to determine which workers were eligible for the fund.

This is not, however, a tale of pocket-padding or intrigue or the siphoning of public finances for personal gain. The Asbestos Workers Fund mirrors a deeper problem: The workers' compensation system is not designed to handle occupational disease claims. What began as a no-fault system to provide injured workers with income and medical benefits while they recuperated has become a complex web of litigation and delays.

These cases are frequently litigated and usually take several years to resolve. There are many possible appeals, with delays at each stage. It now takes about a year to get a hearing on an appeal before the backlogged state Workers' Compensation Appeals Board.

Asbestos claims are a clear example of the problems. According to a recent survey by the California Workers' Compensation Insurance Institute, 95 percent of all asbestos claims are contested by employers and their insurance companies. One asbestos case decided last year was filed eight years before. Meanwhile, workers are left empty-handed as attorneys and insurance companies argue over who, if anyone, must provide compensation for the disease.



The language barrier

It was this time gap that Agnos' bill, AB 946, was meant to fill. It provided $2.5 million that was to be paid out as advances on medical and disability benefits at the same rates payable under workers' compensation. Payments would come from the fund until the individual's case was decided and all appeals completed. The fund would then be reimbursed from the individual's award, making the fund a continuous revolving account that could be used over and over again. "We wanted to provide payments to asbestos workers who have earned the benefits but can't get them yet due to litigation," Agnos says. "It was a humane gesture meant for people caught with no money to pay their bills."

But good intentions were not enough, and a semantic problem was born. The wording in the final version of AB 946 provided benefits for "temporary disability," not temporary benefits for disabled workers, as Agnos and other legislators now say they thought they were passing. "We didn't know that's how it would be interpreted," Agnos admits.

"Temporary disability" under workers' compensation is a narrowly defined term that refers to workers who are temporarily unable to work but who will recover and return to their jobs. In an injury case, a person who broke an arm on the job would receive temporary disability benefits until the arm healed and he or she was able to return to work. Should the arm not heal properly, preventing the worker from returning to the job, he or she would be rated permanently and partially disabled, receiving some benefits based on the loss of the arm's use.

But asbestos disease runs a different course. Because of a long latency period — 10 to 30 years — asbestosis may not even appear until a person has already retired, and the ability to return to work may not be a factor at all. Asbestos diseases, cancer and asbestosis, are not "temporary" conditions but permanent and deteriorating ones. Yet benefits for workers are determined on the basis of these categories, and no major statutory changes have been made to accommodate occupational diseases. Judges have had to apply injury terminology as best they could, with the result that the system is a form of "rough western justice" when it comes to disease cases, as one insurance lobbyist puts it.

The debate over terminology may sound like semantic

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nit-picking, but it is questions such as these that determine whether a worker gets benefits, how much and for how long. Thousands of workers can be affected by the choice of words, as the Asbestos Workers Fund illustrates.

At hearings last November before the Assembly Workers' Compensation subcommittee, there was confusion about what the proper language in the bill should be. Agnos says changes in the statute are clearly needed and promises to introduce an emergency bill this session. He says he intended to cover as many workers as possible under the fund and wants language that would not exclude any category of disabled asbestos workers. The insurance lobby is expected to fight a change that broadens coverage for all.

The liability of an insurance carrier is not altered in any way by the Asbestos Workers Fund, which essentially provides a mechanism in which the worker "borrows" on his anticipated benefits and pays the fund back once he actually receives them. If the fund pays benefits to a worker who later loses his case, the fund must absorb the loss.

For this reason, the question of eligibility includes a preliminary determination of whether the worker is likely to win his case. This is at the heart of the second reason for the fund's failure: Attorneys are reluctant to refer their clients to the fund. First, they know their clients are not eligible for temporary disability benefits. "It's like giving them a ray of hope and then pulling the rug out from under them (when they are ruled not eligible)," an Oakland asbestos-claimants' attorney says. Second, there is the requirement that all fund applicants be seen by an independent medical examiner (IME). These are state-appointed physicians in private practice who examine workers when there is disagreement on a medical issue. As an "independent" opinion, the IME's report usually carries greater weight than that of other doctors.

Diagnosing asbestos disease is no simple proposition. There is disagreement among medical researchers as to what exactly constitutes asbestosis, and it can be confused with other lung ailments. In a worker's compensation claim or civil suit filed against the asbestos manufacturer, the politics of diagnosis becomes the central issue. Choosing a doctor is like picking a jury: Each side sends the worker to a doctor who leans one way or the other in diagnosing asbestos disease. One victim, Helen Elliott of Madera, testified at the hearings that during four years of litigation she saw 17 different doctors. Five told her she was dying of mesothelioma (a rare form of cancer caused by asbestos) while others told her she had no disease at all and said her problems were caused by smoking and obesity.

In complex cases, the medical diagnosis is settled by the IME's report. Yet many doctors who serve as IME's are not experts on asbestos disease; some may have seen only a few cases of it in their training. Still, the IME opinion is given credence because it is deemed an "independent" judgment. "The potential harm to the client's case outweighs the benefits" of receiving advance payments, according to San Francisco claimants' attorney James Miller.

Fund administrator Robert McLeod says that a person who has hired an attorney for an asbestos claim or suit must have permission of his attorney to apply for fund benefits. McLeod's staff sent 273 letters to attorneys last year, advising them that their clients might be eligible for fund benefits and asking permission to contact the clients. Permission was denied in 42 cases, granted in 68, and there was no response on the other 163, McLeod says. Some law firms responded that their answer would be a blanket "no" for all clients.

At the subcommittee hearing, Agnos charged attorneys with denying their clients access to the fund because the attorneys "stand to gain that big pot at the end of the rainbow," a large fee from a successful civil suit. By introducing "clean-up" legislation to address the problems in the Asbestos Workers Fund, Agnos said he hoped to "take away the attorneys' excuses" for not referring people to the fund and make it available to more asbestos victims. Agnos wants to broaden the wording on "temporary disability" benefits and make the IME examination discretionary rather than mandatory.

While changes in the statute may broaden the fund's coverage, it remains a Bandaid for a system with deeper problems. The debates over language, liability and medical issues are symptoms of a program that has never been adapted to handle its relatively new stepchild, occupational disease, according to most workers' comp administrators, attorneys and insurers. Among the reforms suggested:

- **Language.** Some language has been clarified by court decisions, but attorneys and insurers say statutory clarification is needed for some terms. A separate set of categories and benefit schedules might be needed for progressive diseases with long latency periods.
- **Liability.** If more than one employer exposed a worker to a hazardous substance, it is difficult to determine which employer is responsible for the costs of the disease. There is no clear "date of injury" and no way to say whose fibers were the ones that lodged in the lungs. California case law places the blame on the employer who "last injuriously exposed" the worker, but this question is a major source of litigation and delay.
- **Presumptions.** Disagreements over medical diagnoses and extent of disability are another source of delays. Some have suggested that presumptions be established for certain diseases. For example, a worker exposed to asbestos without protection for a stated number of years and exhibiting certain set of symptoms would be automatically presumed to have asbestos disease, eliminating the need for repeated and costly medical exams.
- **More judges.** While appeals have tripled, only 10 judges have been added to the compensation system in the last decade, for a total of 137. There are now 125,000 cases appealed each year to the state Workers' Compensation Appeals Board, and it takes an average of a year to get on the calendar for a hearing. Harry Calvert, the compensation judge who now handles asbestos cases in Northern California, told legislators at asbestos-fund hearings, "You give me a couple more judges, a few court reporters and clerical staff and we could clean up this whole logjam (of old cases) in months."
- **Higher benefits.** Inadequate benefits and delays in receiving them have caused many workers to look elsewhere for compensation. They don't bother to file workers' compensation claims but rely instead on Social Security disability, welfare, Medicare and other sources for income and medical costs. Last fall, California Congressman George Miller charged that $3 billion is paid each year to occupational disease victims by Social Security and other public programs. These are funds that should have been paid from the employer-financed workers' compensation system, Miller said.

"The failure of workers' compensation programs means that the taxpayers are unwittingly subsidizing hazardous industries," according to Miller. "It is essential that workers' compensation be reformed so that it is responsive to occupational disease victims, if we are to relieve the current crisis of the Social Security system."

Steven Kazan, an Oakland attorney who handles many occupational disease cases, predicts that the problem is going to get worse. "There's going to be a whole lot more occupational disease in the future," he says. "We'd better get the system organized to deal with these cases adequately and intelligently. The problem is not going to go away."

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Perspective from
WASHINGTON
By Leo Rennert

Cranston for President?

While Republican Senator S. I. Hayakawa was in Monterey telling the party faithful that he had decided to leave the political stage, his senior colleague, Democrat Alan Cranston, was 3,000 miles away in New Hampshire planting the seeds of a presidential campaign. California, with its peculiar restlessness and mercurial style, was treating the nation to a special double bill — a political wake on one side of the continent and a baptism for a new White House hopeful on the other. Exit Hayakawa, as Cranston reaches for the brass ring.

TO POLITICIANS ON THE SIDELINES, the Hayakawa fadeout was no surprise. Cranston's decision to test the 1984 presidential waters, however, was a stunner. Initial reactions ranged from amused skepticism to total disbelief. Not only had Cranston never shown any interest in running for president, he repeatedly emphasized that he wanted to cap his political career in the Senate. In 1976, when he was bidding for his current post of assistant Democratic leader, he pointedly asked Jimmy Carter to strike him from his list of possible running mates. Cranston described himself as a "Senate man" with no other ambitions. Besides, he pointed out to Carter, even a hint that he might be in line for the vice-presidential spot could hurt his chances for the No. 2 Senate Democratic leadership post. More recently, Cranston had begun to position himself for a possible bid to succeed Robert Byrd of West Virginia on the top rung as Democratic floor leader after the November elections.

Again, it's not likely such a move could succeed on the part of someone angling at the same time for the presidential nomination. On Capitol Hill, among California pols and colleagues from other states, the first reaction to Cranston's sudden show of presidential fever was one of total bewilderment. How could he throw away a fair chance for advancement in the Senate for a quixotic pursuit of the 1984 nomination?

The complete answer may not be known for some time because Cranston consulted with only a handful of political advisers and close friends before he announced formation of a presidential "exploratory" committee to help him determine the feasibility of running in 1984. Some factors that pulled him in this direction, however, are fairly obvious. Chief among them was fellow Californian Ronald Reagan, regarded by Cranston as a nefarious right-winger who's out to wreck 50 years of social progress and a gung-ho hawk who could bring the world to the brink of a nuclear holocaust. After spending 12 quiet years in the Senate, Cranston was radicalized by Reagan. Last year, while most other Democrats were running for cover, Cranston took center stage as a forceful opposition leader hammering away at Reagan. A political pussycat turned into a tiger. The media eventually spotted Cranston's new role. In turn, his press notices drew the attention of influential party figures and grassroots activists in search of new leadership.

There also was an important change within Cranston himself. His successful 1980 campaign for a third Senate term, when he won by a bigger margin in California than Reagan, raised his self-confidence and nurtured the feeling that he might be cut out for bigger things. The lackluster performance of recent presidents also strengthened his resolve. During his first scouting trip to New Hampshire, he observed that, until just recently, he never had pictured himself as having the credentials for the Oval Office because he always stood in awe of giants like Washington, Jefferson, Lincoln and Roosevelt. "But after watching presidents at close hand for 13 years," Cranston added, "I must admit I've lost a lot of that awe."

In positioning himself for 1984, Cranston hopes to duplicate on the national scene his formula for survival and success in the turbulent world of California politics — support from labor, environmental, minority and other liberal groups, coupled with a pro-business stance that made him a welcome figure among bankers, corporate chieftains, independent oil producers and agribusiness leaders. If a Cranston boomlet develops along the way, that could prove a highly potent combination.

With the 1982 elections still months away, early maneuvers for 1984, including Cranston's, seem a bit unreal. The senator is quick to point out that, at this stage, he's only exploring the feasibility of a 1984 candidacy and won't make a final decision until the end of this year or the beginning of 1983. But there's no denying that he has been bitten by the presidential bug and is looking for an opening. A few hours in New Hampshire, where he drew good notices and friendly receptions, convinced him that it's a wide open contest. In his view, neither former Vice President Mondale nor Senator Kennedy has a firm lock on grassroots support. Other hopefuls like Senators Gary Hart of Colorado and John Glenn of Ohio have yet to unlimber their artillery. That gives Cranston plenty of time and opportunity to show the flag as a mature, experienced leader who may not have much charisma but could just turn out to be the fresh face the party is looking for.

KENNEDY IS THE KEY to Cranston's plans. If the Massachusetts senator runs again in 1984, he could block Cranston's access to the party's liberal wing. If he doesn't, Cranston could become the logical inheritor of Kennedy's following, which he then could expand with centrist support from pro-business moderates. Kennedy is running hard for re-election to the Senate this year and won't tip his hand about 1984 until after November. In the meantime, Cranston already is spreading the word that Kennedy may skip 1984 and that his followers might do well to start looking for an alternative. Cranston is less concerned about Mondale, who's actively lining up support for 1984 but offers unhappy reminders of the Carter years. Cranston doubts Mondale can make serious inroads among liberals. He also is skeptical about Mondale's ability to emerge as a strong presidential contender in his own right. That leaves Kennedy as a critical make-or-break factor in Cranston's march toward the White House.

The toe-dipping trip to New Hampshire quickly dispelled any lingering doubts about Cranston's own intentions. "I will run if it's feasible, and I hope it's feasible," he remarked. "My visit to New Hampshire was more productive and positive than I had expected. I enjoyed it. Dammit, it was fun."

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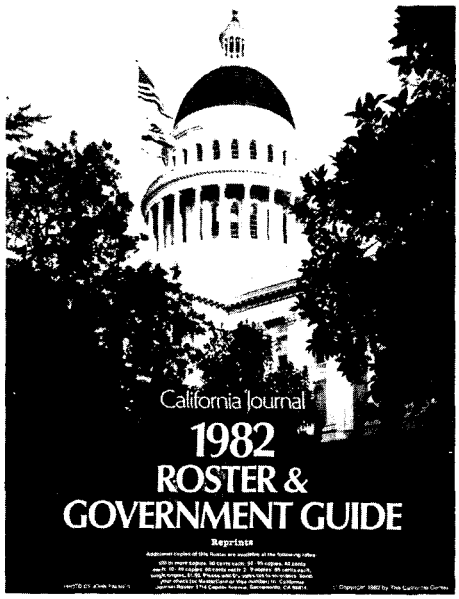

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